

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 19

In the Matter of:

Starbucks Corporation,

Case No. 19-CA-289275

Respondent,

and

Workers United, Affiliated with  
Service Employees  
International Union,

Charging Party.

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UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 19

In the Matter of:

STARBUCKS CORPORATION,

Respondent,

and

WORKERS UNITED, AFFILIATED WITH  
SERVICE EMPLOYEES  
INTERNATIONAL UNION,

Charging Party.

Case No. 19-CA-289275

The above-entitled matter came on for hearing, pursuant to notice, before **JOHN T. GIANNOPOULOS**, Administrative Law Judge, at the 2948 Jackson Federal Building, 915 Second Avenue, Seattle, WA 98174, on **Tuesday, September 13, 2022, 9:01 a.m.**



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I N D E X

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Jennifer Popkin	32	41, 45	57		
Rachel Ybarra	60, 65,	90, 177	177	183	63, 70, 124
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Robert Lawrence	187	219	229	230	193, 196

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1                                    P R O C E E D I N G S

2                    JUDGE GIANNOPOULOS: All right. Good morning, everyone.  
3 We're on the record. This is the case of Starbucks  
4 Corporation, case number 19-CA-289275. My name's John  
5 Giannopoulos. I'm the administrative law judge assigned to  
6 this matter. Before we do appearances, we're going to take a  
7 break while the parties just get ready and take care of some  
8 preliminary matters.

9                    So let's go back -- let's go off the record, Bruce.  
10 (Off the record at 9:01 a.m.)

11                  JUDGE GIANNOPOULOS: All right. Let's go back on the  
12 record. All right. Good morning again, everyone. We've taken  
13 care of preliminary matters. We're back on the record in this  
14 case. Again, my name is John Giannopoulos. I'm the  
15 administrative law judge presiding in this matter assigned out  
16 of the San Francisco Division of Judges office. Any written  
17 motions or other types of pleadings need to be filed with that  
18 office.

19                  Would the parties please state their appearances for the  
20 record? Let's start with the General Counsel.

21                  MS. GARFIELD: For the General Counsel, Your Honor, Alice  
22 J. Garfield, Region 19, 915 Second Avenue, Seattle, Washington.

23                  JUDGE GIANNOPOULOS: Okay. And with you is?

24                  MS. MCBRIDE: Sarah McBride, counsel for General Counsel,  
25 Region 19.

1 JUDGE GIANNOPOULOS: Very good. Thank you.

2 And for the Charging Party? Is there someone here  
3 representing the Charging Party?

4 MS. MULTHAUP: Marina Multhaup with Barnard Iglitzin &  
5 Lavitt representing the Workers United.

6 JUDGE GIANNOPOULOS: All right. Good morning, Ms.  
7 Multhaup.

8 And for the Respondent?

9 MS. SAADE: Renea Saade, spelled S-A-A-D-E, with Littler  
10 Mendelson. And I have with me my colleague Breanne Lynch.

11 JUDGE GIANNOPOULOS: All right. Ms. Saade, Ms. Lynch,  
12 good morning. Thank you.

13 Although we're here to litigate the case, I'm advising you  
14 before I've heard any testimony that I intend to offer the  
15 parties an opportunity to have settlement discussions at any  
16 point if they so ask. I know that we discussed this earlier  
17 before the trial opened and there did not seem to be any  
18 movement towards settlement, but remember, settlement's always  
19 an option. So keep that in mind and if you need or want some  
20 time to pursue further settlement discussions, just let me  
21 know.

22 Counsel for the General Counsel, would you please  
23 introduce the pleadings and other formal papers.

24 MS. GARFIELD: Thank you, Your Honor. At this point,  
25 General Counsel offers into evidence Exhibit 1, which consists



1 of the formal papers and an index describing them. The index  
2 lists documents 1-A through 1-Q, Q being the index of the  
3 formal documents, a copy of which has been shown to the  
4 parties.

5 JUDGE GIANNOPOULOS: All right. Any objections from the  
6 Union? Have you had a chance to look at the formal papers?

7 MS. MULTHAUP: No objections.

8 JUDGE GIANNOPOULOS: All right. From the Respondent, any  
9 objections?

10 MS. SAADE: Your Honor, if I could just have a -- a moment  
11 to --

12 JUDGE GIANNOPOULOS: Yeah. Absolutely.

13 MS. SAADE: Thank you.

14 JUDGE GIANNOPOULOS: So let's go off the record.

15 Bruce?

16 So we'll take a few moments to look. It's quite a few  
17 documents.

18 (Off the record at 9:27 a.m.)

19 THE COURT REPORTER: Back on the record.

20 JUDGE GIANNOPOULOS: All right. We're back on the record.

21 Ms. Saade, any objections to the General Counsel's 1, the  
22 formal papers?

23 MS. SAADE: In -- in general terms, no, Your Honor.

24 However, I do want to note for the record that we don't

25 stipulate to the content of the affidavits of service that are

1 attached as 1-B, 1-D, 1-F, 1-I because my client does not have  
2 record of receiving any of those documents.

3 JUDGE GIANNOPOULOS: All right. Let me just take a look  
4 at the -- at least the first --

5 MS. SAADE: Counsel received copies, but Starbucks itself  
6 did not.

7 (Counsel confer)

8 JUDGE GIANNOPOULOS: Okay. I see that -- I see that on  
9 some of these -- well, we're here today so clearly Respondent  
10 has notice -- has received notice and you've seen the charges,  
11 you've seen such. I will note that, at least, I've seen the  
12 affidavit of service, the charge. It appears -- it claims that  
13 they all went to this, I'm assuming that is, the 201 Utah  
14 Street -- Avenue, sorry, Utah Avenue. Is that a corporate  
15 address here?

16 Do you know, Ms. Saade?

17 MS. SAADE: Yes, it is, Your Honor --

18 JUDGE GIANNOPOULOS: Okay.

19 MS. SAADE: -- but there's no evidence of mailed copies or  
20 the email address.

21 JUDGE GIANNOPOULOS: All right. Well --

22 MS. SAADE: You know, like on page 9 of 9 of Exhibit 1-E,  
23 it indicates that both Mr. Schultz and Ms. Turvin received  
24 emailed copies of the charges. I -- I can't stipulate to  
25 the --

1 JUDGE GIANNOPOULOS: Sure.

2 MS. SAADE: -- to the receipt of those.

3 JUDGE GIANNOPOULOS: But I don't think we want Mr. Schultz  
4 to comment about his email. Quite frankly, I'm sure he has  
5 quite a big spam folder. In any event, I'm going to admit  
6 General Counsel's 1. Everyone is here. Everyone has received  
7 the actual documents themselves before today. There's no claim  
8 that you haven't seen any of these documents?

9 MS. SAADE: No. That's not the claim, Your Honor.

10 JUDGE GIANNOPOULOS: I understand.

11 MS. SAADE: I just wanted to be --

12 JUDGE GIANNOPOULOS: I get it.

13 MS. SAADE: -- factually accurate in my stipulations.

14 JUDGE GIANNOPOULOS: I understand. And you know, quite  
15 honestly, usually my practice had always been that I just find  
16 to the -- I just go with the State Corporation's office --  
17 well, whatever it's called in the state. They always have the  
18 registered agent of service and I just would serve those, but  
19 for some reason, the NLRB doesn't like to do that. Because  
20 it's very easy when you serve -- like, usually, it's a company  
21 like CTC Corporation System, one of these big -- you can't  
22 claim you didn't get it. I mean, you know, it goes there and  
23 you usually have something. But in any event, that's not what  
24 we're talking about today. It's just my own personal issue.

25 General Counsel's 1 is received.



1     **(General Counsel Exhibit Number 1-A - 1Q Received into**  
2     **Evidence)**

3             MS. GARFIELD: Thank you.

4             JUDGE GIANNOPOULOS: Any other preliminary matters that we  
5     need to discuss before we go with opening statements or  
6     motions?

7             MS. SAADE: I would move to sequester the witnesses, Your  
8     Honor.

9             JUDGE GIANNOPOULOS: All right. Any objections to the  
10    motion to sequester?

11            General Counsel, any objections?

12            MS. GARFIELD: No objection, Your Honor.

13            JUDGE GIANNOPOULOS: From the Union?

14            MS. MULTHAUP: No objection.

15            JUDGE GIANNOPOULOS: Okay. So I'm going to grant the  
16    sequestration motion, and I'm going to issue a sequestration  
17    order.

18            So for all the witnesses and potential witnesses that are  
19    in the gallery, a sequestration order is being issued in this  
20    proceeding. This means that all persons who expect to be  
21    called as witnesses in this matter, other than a person  
22    designated as essential to a party's representation of the  
23    case, will be required to remain outside of the courtroom  
24    whenever testimony or other proceedings are taking place.

25            A limited exception applies to witnesses who are alleged



1 discriminatees. Of course, there are no alleged discriminatees  
2 in this matter, in this case. If there were, that exception  
3 would mean that they could be present in the courtroom at  
4 times, except when witnesses for the General Counsel or the  
5 Charging Party are giving testimony to the same events that the  
6 alleged discriminatee was expected to testify about, but  
7 because we do not have any alleged discriminatees, it doesn't  
8 apply to this case.

9       The sequestration order also prohibits all witnesses from  
10 discussing with any other witness or possible witnesses the  
11 testimony they have given or will give. So please, if you're  
12 going to be a witness in this case, if you think you might be a  
13 witness, if you know anything about it, just don't talk about  
14 the case to anybody until we're all done. And -- and you'll  
15 know when we're finished. Someone will tell you. Either the  
16 Charging Party's counsel or the General Counsel will tell you  
17 or Starbucks -- for Starbucks witnesses, they'll tell you that.

18       Likewise, counsel for a party may not disclose to any  
19 witness the testimony of any other witness. Counsel may,  
20 however, inform his or her own witnesses about the content of  
21 testimony given by any opposing party's witness to prepare to  
22 rebut that testimony. It's the counsel's responsibility to  
23 make sure that they and their witnesses comply with the  
24 sequestration. Okay?

25       So take a look around the room -- this is for the



1 lawyers -- if you see anyone in this case that you think will  
2 be a witness or may be a witness, they need to be sequestered.  
3 So let's take a break. I know that we have a sequestration  
4 room set up. So let's take a break while the attorneys work  
5 that out and escort the witnesses to the sequestration room,  
6 all right?

7 Let's go off the record.

8 (Off the record at 9:37 a.m.)

9 JUDGE GIANNOPOULOS: All right. We're back on the record.  
10 The potential witnesses or witnesses have been escorted out of  
11 the room. Are there any other preliminary matters or motions?

12 From the General Counsel?

13 MS. GARFIELD: Well, I -- I was going to discuss briefly  
14 the -- the paragraph -- paragraph 4 of the complaint.

15 JUDGE GIANNOPOULOS: All right. Could I ask you, Ms.  
16 Garfield, to please keep your voice up?

17 MS. GARFIELD: Oh?

18 JUDGE GIANNOPOULOS: I'm having a hard time hearing you  
19 and I know some people are wearing masks and it just -- it also  
20 muffles -- it muffles your voice as well. So just -- if you  
21 can keep it up, it would be appreciated.

22 MS. GARFIELD: Okay. I'm sorry. Is this better, Your  
23 Honor?

24 JUDGE GIANNOPOULOS: Yes. Much better.

25 MS. GARFIELD: Excellent. I'll try to do that throughout

1 the hearing.

2 JUDGE GIANNOPOULOS: Okay.

3 MS. GARFIELD: Um --

4 MS. SAADE: Here --

5 MS. GARFIELD: Yeah?

6 MS. SAADE: Actually, before we continue, I -- I would  
7 like to better understand the role that the -- the nonattorney  
8 sitting there --

9 JUDGE GIANNOPOULOS: Oh, I'm sorry. I should have -- I  
10 take it back. I should have asked the parties to identify  
11 anyone who is sitting at the table with them who is an  
12 essential party to the case. That's my mistake.

13 So Starbucks, do you have anyone with you that you would  
14 like to identify as an essential party that would not be  
15 subject to the sequestration order?

16 MS. SAADE: Yes. He's on his way. His name is Rob  
17 Lawrence.

18 JUDGE GIANNOPOULOS: Rob Lawrence? Okay.

19 MS. SAADE: And he is a partner resources manager.

20 JUDGE GIANNOPOULOS: All right. So when Mr. Lawrence  
21 shows up, just give us a heads-up on the record, okay?

22 For the General Counsel?

23 MS. GARFIELD: Yes. For the General Counsel -- General  
24 Counsel, Rachel Ybarra, spelled Y-B-A-R-R-A.

25 JUDGE GIANNOPOULOS: And that's Rachel. There we go.



1 For the Union?

2 MS. MULTHAUP: No. No one.

3 JUDGE GIANNOPOULOS: Okay. Okay. So I think that answers  
4 your question.

5 MS. SAADE: Thank you.

6 JUDGE GIANNOPOULOS: Yes. All right. General Counsel,  
7 you were talking about paragraph 4, I believe it was, of the  
8 complaint?

9 MS. GARFIELD: Yes. I was talking about paragraph 4 and  
10 we did discuss this briefly during the pre-trial conference  
11 call, so I -- I -- it's a little bit ambiguous, the answer,  
12 because the answer says "at certain times". And I just want to  
13 work out that ambiguity to the best that we can because with  
14 Respondent. So my understanding from off-the-record  
15 conversations -- I think we were off the record that day -- is  
16 that there are three agents/supervisors named here and one or  
17 more than one is no longer employed and I don't have any  
18 information about that so I would appreciate some sort of  
19 clarification or stipulation.

20 JUDGE GIANNOPOULOS: Okay. And I know we did discuss in  
21 the answer -- I don't have the answer in front of me right now.  
22 I could -- I could find it. But it said in essence that  
23 Starbucks agreed that these individuals had been employed at  
24 various times in their positions as stated and at various times  
25 were Section 2(11) supervisors or 2(13) agents. I'm



1     paraphrasing, but is that about correct?

2             MS. GARFIELD:   Yes.

3             MS. SAADE:    Yes.

4             JUDGE GIANNOPOULOS:   And I did discuss on the pre-hearing  
5     conference trying to nail down dates and again, I don't want to  
6     paraphrase, but in an off-the-record discuss today, I think Ms.  
7     Saade, you said that one of the issues is that some of these  
8     people are no present -- are no longer employed?

9             MS. SAADE:    Yes, Your Honor.   One individual is out on  
10    leave.

11            JUDGE GIANNOPOULOS:   Okay.

12            MS. SAADE:    As you know, from our request for a  
13    continuance.

14            JUDGE GIANNOPOULOS:   Yeah.

15            MS. SAADE:    And the other individual is no longer employed  
16    and I did offer -- I did reach out counsel for the General  
17    Counsel and attempt to see if they had any stipulated facts to  
18    propose --

19            JUDGE GIANNOPOULOS:   Okay.

20            MS. SAADE:    -- so that we could resolve this before today.

21            JUDGE GIANNOPOULOS:   Okay.

22            MS. SAADE:    I did not receive any.   So --

23            JUDGE GIANNOPOULOS:   Well, let me say this:   Ms. Garfield,  
24    what I would do is, let's just see how the testimony plays out.  
25    I'm assuming that your witnesses will testify about the events

1 that took place --

2 MS. GARFIELD: Right.

3 JUDGE GIANNOPOULOS: -- alleged in the complaint?

4 MS. GARFIELD: Correct.

5 JUDGE GIANNOPOULOS: I'm assuming that they will testify  
6 about the people that were involved and because it's my  
7 understanding or assumption that the witnesses actually work at  
8 the stores in question, they would know who their manager or  
9 assistant manager or whatever is.

10 MS. GARFIELD: Correct.

11 JUDGE GIANNOPOULOS: And so let's see how your case-in-  
12 chief goes. If you get that evidence in that the witness has  
13 testified that John Doe was the store manager or assistant  
14 store manager and they're alleged in the complaint and the  
15 answer says what it says, then I'm just going to assume that  
16 they were working there at the time.

17 And I think the answer then admits that if they were  
18 working there at the time, Ms. Saade, then they were  
19 supervisors or agents.

20 MS. SAADE: If the -- if the conduct in question happened  
21 at work, yes.

22 JUDGE GIANNOPOULOS: I understand.

23 MS. SAADE: There's no dispute over that. Yeah.

24 JUDGE GIANNOPOULOS: I understand. I understand. I'm  
25 sorry to cut you off. I have a horrible habit of cutting

1 people off and so let me just say this for all counsel: You  
2 can cut me off. If you think I've cut you off and that you  
3 have more to say, just tell me. And I also have a tendency to  
4 ask my own questions of witnesses at times. You can object to  
5 my questions. That goes for both sides. Just because I ask --  
6 I might -- I might overrule it -- but just because I ask a  
7 question doesn't mean that it's necessarily always proper and I  
8 have sustained objections to my own questions as times. So  
9 just give me a heads-up.

10 All right. So let's do that. Let's see where we go.

11 And I was going to say, Ms. Saade, I understand the  
12 company's position that some of this conduct may have occurred  
13 outside of the scope, the authority of the people that were  
14 hired to work in these positions and they didn't occur while  
15 they were working. That's more of legal argument, but I do  
16 understand that.

17 MS. SAADE: Thank you.

18 JUDGE GIANNOPOULOS: Okay. Are there any other  
19 preliminary -- Ms. Garfield, does that answer your question?

20 MS. GARFIELD: Yes. I think so. Thank you.

21 JUDGE GIANNOPOULOS: And after the testimony, if you think  
22 we need to drill down more, if you want to seek further  
23 stipulations or if you need a subpoena for further documents,  
24 you just let know.

25 MS. GARFIELD: Thank you, Your Honor.

1 JUDGE GIANNOPOULOS: All right. Any other preliminary  
2 matters from the General Counsel?

3 MS. GARFIELD: Nothing from GC. No. Thank you.

4 JUDGE GIANNOPOULOS: How about for the Union? Ms.  
5 Multhaup?

6 MS. MULTHAUP: No. Thank you.

7 JUDGE GIANNOPOULOS: Okay. Ms. Saade, any preliminary  
8 matters from Starbucks?

9 MS. SAADE: Just the outstanding subpoena, the petition to  
10 revoke. Will that -- will we try to deal with that later  
11 today?

12 JUDGE GIANNOPOULOS: No. We'll deal with that after --  
13 I'll deal with that right now, but I mean, after we -- that's  
14 why I'm asking about preliminary matters.

15 MS. SAADE: Yes. Of course.

16 JUDGE GIANNOPOULOS: Okay. So are there are any other  
17 motions for preliminary matters other than the subpoena?

18 MS. SAADE: No.

19 MS. GARFIELD: No.

20 JUDGE GIANNOPOULOS: So I did issue an order on a petition  
21 to revoke subpoena filed by Starbucks. That was the General  
22 Counsel's position in that order. I didn't receive it until  
23 last week. That order issued yesterday -- everyone, I think,  
24 has it -- if there are any issues or questions, please raise --  
25 raise it with me now. One of the things I wanted to add: The

1 subpoena's not in the record, the order's not in the record.  
2 If you think it needs to be in the record, then any party,  
3 whatever party could offer it.

4 One of the issues I -- one of the -- there was an issue on  
5 the time frame which I think I addressed adequately in the  
6 order, but I also wanted to add why I furthermore think the  
7 time frame in the subpoena was valid is that I don't know when  
8 the workers in question were hired in this case -- the -- the  
9 people that were -- that these alleged statements were made to.  
10 And so it's very possible -- I'm assuming that they were hired  
11 before the day these statements were made, so I don't know how  
12 far back that goes and so I thought that the General Counsel's  
13 in further support and the reason why I denied the Company's  
14 petition to revoke is -- is that I thought the time frame was  
15 reasonable, particularly, considering the hire dates of these  
16 workers.

17 So going back a period of 14 months, I didn't think, was  
18 unreasonable in that we'll see what the testimony shows, but  
19 I'm assuming these workers were there for at least a number of  
20 weeks before the alleged incidents. So they may have received  
21 some sort of, you know, handbook or rules that contain various  
22 matters when they were hired. And so I think it's clearly  
23 relevant -- that's why I didn't think the time frame was over  
24 broad. That's just an additional reason that -- I did not say  
25 it in my order, but I thought it and I just wanted to say that

1 on the record.

2 Okay. So that takes care of the issue on -- that I want  
3 to talk about on that subpoena. This morning, I received a  
4 copy of a petition to revoke filed by the counsel for the  
5 General Counsel with respect to a subpoena that was served upon  
6 the General Counsel by Starbucks.

7 And then, Ms. Saade, let me just ask you: Have you had a  
8 chance to look at -- I had a chance to look at the subpoena. I  
9 looked at the General Counsel's petition to revoke briefly, but  
10 the one question I had for you is: Did you ask and have you  
11 received permission from the General Counsel in Washington D.C.  
12 to receive documents from the Region's files?

13 MS. SAADE: No.

14 JUDGE GIANNOPOULOS: No. Did you seek permission?

15 MS. SAADE: No.

16 JUDGE GIANNOPOULOS: You did not send a letter to the --  
17 to Jennifer Abruzzo, the General Counsel? So on that basis  
18 alone, I'm going to grant the petition to revoke. Section  
19 102.118 is very clear about the Board's rules and regulations,  
20 that you need to seek permission from the General Counsel and  
21 actually receive permission before they can release files,  
22 whether it's pursuant to a subpoena or otherwise. And so that  
23 takes care of that. I don't need to go into any of the other  
24 arguments raised in the General Counsel's petition to revoke.

25 I will say this, Ms. Saade: A lot of the documents you

1 requested, you will probably get a copy of. You'll get Jencks  
2 statements when, after witnesses testify, you ask for them.

3 And General Counsel, let me just remind you that Jencks is  
4 broad. It doesn't just mean an affidavit. So if you have  
5 communications from the witnesses, whether these communications  
6 are an email or text messages, if they come from the witness to  
7 the government and they're related to this matter, you need to  
8 produce them. Even if they're not in this case file. If  
9 they're somehow related to the complaint allegations, but you  
10 have -- you have them in your possession, then they're Jencks  
11 statements. Okay?

12 MS. GARFIELD: Understood.

13 JUDGE GIANNOPOULOS: Yeah. All right. Ms. Saade, any  
14 questions on that?

15 MS. SAADE: No, Your Honor.

16 JUDGE GIANNOPOULOS: Okay. Are there are other  
17 preliminary matters we need to discuss?

18 I don't --

19 MS. SAADE: I -- I guess one thing. I -- I would like to  
20 introduce the subpoena or the petition to revoke, which  
21 includes a copy of the subpoena into the record, Your Honor.

22 JUDGE GIANNOPOULOS: Okay. Do you have it? Do you  
23 have --

24 MS. SAADE: Do I have an extra copy?

25 JUDGE GIANNOPOULOS: -- sufficient copies? We can do

1       that.

2               MS. SAADE: I don't have -- I don't have some copies. No.

3               JUDGE GIANNOPOULOS: So what we'll do is we'll do that at  
4       the break.

5               MS. SAADE: Okay.

6               JUDGE GIANNOPOULOS: And we'll do that over lunch. We'll  
7       take a little longer lunch and we'll do that.

8               And then, quite honestly, Ms. Garfield, I think it'll  
9       probably be a good idea if you get a copy of the subpoena that  
10      was issued by the General Counsel, the petition to revoke, and  
11      my ruling as well. And then we just -- we can introduce all  
12      the subpoena stuff in, okay?

13              MS. GARFIELD: Fair enough.

14              JUDGE GIANNOPOULOS: Is that -- does that take care of  
15      things?

16              MS. SAADE: Thank you. Yes.

17              JUDGE GIANNOPOULOS: And then you have that preserved if  
18      you want to file exceptions or whatever, but -- but all the  
19      subpoena issues will be in the record.

20              All right. Are we ready for opening statements?

21              Ms. Garfield, are you ready?

22              MS. GARFIELD: Yes. Yes, Your Honor.

23              JUDGE GIANNOPOULOS: All right. Go ahead.

24              MS. GARFIELD: Well, let me say good morning again, Your  
25      Honor. As I represented both to you and during our pre-trial



1 conference call, the consolidated complaint in this case  
2 alleges relatively narrow and straightforward violations.  
3 Essentially, we're dealing with two independent 8(a)1. There  
4 are four, but really two kind of statements to employees at one  
5 Starbucks store located on Broadway and Denny in downtown  
6 Seattle.

7       Regarding the first 8(a)(1) statement, Your Honor, Halley  
8 Hager, a support manager substituting for the store manager,  
9 Pam Mariscal, told employees that -- at the store -- that they  
10 risked discipline pursuant to Starbucks corporate policy if  
11 they honored an NLRB subpoena and attended a hearing without  
12 first finding a replacement. The inviolability of the NLRB's  
13 proceedings and importance of subpoenas requiring employees to  
14 testify at our hearings is no inconsequential matter. As  
15 lawyers, we understand the actual significance of subpoenas and  
16 none of us would countenance interfering with or placing  
17 restrictions on a witnesses' ability to honor a subpoena. Yet,  
18 that is what Respondent's supervisor did and that interference  
19 demands a remedy.

20       The second 8(a)(1) allegation involves store manager Pam  
21 Mariscal admonishing -- admonishing an employee who gave a  
22 customer union buttons after the customer asked the employee  
23 for the buttons. As you'll hear, there was no disruption to  
24 the business during the button exchange and even though the  
25 manager was standing next to the employee when the incident

1 occurred, it was not until the next day that the employee was  
2 reprimanded. It is important to note that this scenario I've  
3 described is distinguishable from an employee handing out union  
4 buttons to other employees while they're both on work time.  
5 Further, let's suppose that the customer entered the store and  
6 complimented the barista, the Starbucks employee, on her  
7 Livestrong wristband whereupon the barista says, oh, I have a  
8 couple of extra, let me go get them for you and she does just  
9 that. GC highly doubts that the barista's actions would have  
10 resulted in a reprimand. Instead, the wristband interaction  
11 might well have met with the supervisor's approval because the  
12 barista had created added goodwill with the customer. But  
13 here, the fact that the employee gave the customer union  
14 buttons was the game changer. And so the interference with the  
15 employee's Section 7 rights is clear.

16 Your Honor, that's pretty much the sum and substance of  
17 this litigation. Still, when it comes to the integrity of  
18 Section 7 rights, narrow allegations should not -- never be  
19 equated with unimportant issues. Accordingly, after you have  
20 heard the evidence and the parties' arguments, General Counsel  
21 requests that you find that Respondent violated the act as  
22 alleged.

23 Thank you, Your Honor.

24 JUDGE GIANNOPOULOS: All right. Thank you, Ms. Garfield.

25 Ms. Multhaup, anything from the Union? Would you like to



1 give an opening statement?

2 MS. MULTHAUP: No. Thank you.

3 JUDGE GIANNOPOULOS: All right. Ms. Saade?

4 MS. SAADE: Good morning, Your Honor. I agree with  
5 counsel for the General Counsel. This is a simple case, but  
6 it's a case that has everything to do with Starbucks  
7 maintaining lawful policies and holding people accountable or  
8 reminding them of those policies. And it has nothing to do  
9 with any sort of attempt to interfere with union support,  
10 protected concerted activity, or coercive conduct.

11 Just to give a little background, the Union filed a  
12 representation petition for the Broadway and Denny Starbucks  
13 location in Seattle towards -- in -- in January, I believe --  
14 and the pre-election hearing was held in that same month. You  
15 will hear evidence that a Starbucks partner was subpoenaed to  
16 testify at that pre-election hearing and did so on Tuesday,  
17 January 18th. You will hear that Starbucks management gave the  
18 partner the time off to testify. In fact, Starbucks gave the  
19 partner time off to attend the hearing in the days leading up  
20 to her testimony.

21 Although you'll -- I'll expect you'll hear otherwise based  
22 on opening statements, we're not here today because anyone at  
23 Starbucks took any steps to try to stop that partner's  
24 testimony or to dissuade it or to discourage that partner or  
25 anyone else from testifying. We're also not here today because

1 anyone at Starbucks took any steps to stop a partner's rights  
2 to do whatever they want on their own time. Instead, what  
3 you'll hear testimony is, is that Starbucks as it's lawfully  
4 entitled to do, reminded its partner that they have an  
5 obligation to call out if they are not going to show up for a  
6 scheduled shift. And if they don't call out or find coverage,  
7 as they're required to do under policy, that they can be  
8 subject to discipline. And indeed, that's been the history of  
9 Starbucks since it's operated at that location.

10 What you'll also hear today is that no one at Starbucks  
11 tried to interfere with the partner's ability to distribute  
12 union buttons or pins on their own personal time. Instead,  
13 what you'll hear is what happened in that incident was that  
14 there are two times the partner distributed a button and a pin  
15 to a customer while on work time, while wearing a green apron,  
16 and that -- that there was an inference that the partner was  
17 doing it on behalf of the company. The partner was not  
18 reprimanded. The partner was not disciplined. The partner was  
19 not spoken to in a harsh tone. Instead, the partner was just  
20 reminded that there is a written policy and a practice that  
21 such gift-giving and/or distribution of items is not allowed  
22 under the company's distribution policy, gift policy, and  
23 nonsolicitation policy.

24 So to the extent anyone had conversations, these were  
25 lawful conversations. They were not intended in any way to

1     interfere or coerce and they were certainly just business as  
2     usual in order to maintain and operate the store.

3             You are going to hear, probably, very -- various versions  
4     of the events of what happened in both incidents. However, the  
5     undisputed facts will show that no one was stopped from doing  
6     what their -- what the protected activity that they wanted to  
7     engage in and there's no indication that there was any attempt  
8     to coerce, interrupt, restrain, or interfere with anyone's  
9     Section 7 rights.

10            Thank you for your time in advance, and I appreciate  
11     everyone's patience as we got settled today.

12            JUDGE GIANNOPOULOS: All right. Very good. Thank you  
13     very much.

14            So for both the General Counsel and Respondent, it sounds  
15     like there was another proceeding that was going on that  
16     precipitated -- that led to this first event, meaning, there  
17     was an "R" case hearing based on a petition. If somebody could  
18     just get those documents and put them in the record.

19            General Counsel, I'm not sure if you had that, if you were  
20     planning to do it? But it's just a lot easier to have them in  
21     the record here, meaning, you know, if there's a notice of  
22     hearing -- to have a copy of the petition. I don't need a  
23     transcript of the hearing. I just need -- I just need a copy  
24     of -- just get a copy of the petition that has the case number  
25     on it and perhaps the notice of hearing that has the dates and

1     that way I don't have to take judicial notice of them because I  
2     hate -- I can take judicial notice if I need to but I don't  
3     want to, you know, search through the NLRB's records to take  
4     judicial notice of ancillary proceedings. So as long as it has  
5     the dates in question, the date of the hearing, the petition,  
6     etc. If you weren't planning to get them in, just make sure  
7     they're in the record.

8             MS. GARFIELD: Your Honor?

9             JUDGE GIANNOPOULOS: Yes?

10            MS. GARFIELD: Do -- do you want the certification of  
11     representative to --

12            JUDGE GIANNOPOULOS: That's fine. Yeah, sure. And also  
13     General Counsel, I like looking at things so -- you know, this  
14     button in question, I hope you have a copy of it or at least  
15     you have an actual button and introduce it into evidence.

16            Good. Perfect.

17            UNIDENTIFIED SPEAKER: Oh, my god.

18            JUDGE GIANNOPOULOS: They're cleaning the windows outside,  
19     it looks like. So there's some noises going on and some  
20     suction cups on the window. That's why everyone is laughing.

21            Okay. Is there any other -- we're done with opening  
22     statements. Any other matter before we start with the  
23     evidence?

24            Ms. Garfield, anything?

25            MS. GARFIELD: I have no further --

1 JUDGE GIANNOPOULOS: All right.

2 MS. GARFIELD: -- preliminary matters to discuss.

3 JUDGE GIANNOPOULOS: Ms. Saade, anything?

4 MS. SAADE: I did have a question about whether or not it  
5 would be possible for us to open one of our phone lines and  
6 just let a colleague listen in on the hearing?

7 JUDGE GIANNOPOULOS: Usually, not. A colleague, someone  
8 from your office?

9 MS. SAADE: Yes.

10 JUDGE GIANNOPOULOS: They can't come down?

11 MS. SAADE: No, they're out of state.

12 JUDGE GIANNOPOULOS: Oh. I'd prefer not to.

13 MS. SAADE: Okay. That's fine.

14 JUDGE GIANNOPOULOS: Because then if we do, we'll have to  
15 do it for everybody and I haven't made those arrangements in  
16 advance so --

17 MS. SAADE: No problem.

18 JUDGE GIANNOPOULOS: Okay.

19 MS. SAADE: Thank you.

20 JUDGE GIANNOPOULOS: From the Union, anything?

21 MS. MULTHAUP: No. Thank you.

22 JUDGE GIANNOPOULOS: Okay. So let's go off the record  
23 while we get our first witness.

24 Bruce, let's go off the record.

25 (Off the record at 10:02 a.m.)

1 JUDGE GIANNOPOULOS: All right. We're back on the record.  
2 From Respondent's side, your representative has joined us. Ms.  
3 Saade, let's make that on the record again.

4 MS. SAADE: Of course. It's Mr. Rob Lawrence.

5 JUDGE GIANNOPOULOS: Great. Mr. Lawrence, welcome.

6 MR. LAWRENCE: Thank you.

7 JUDGE GIANNOPOULOS: Okay. Ms. Garfield, are you ready  
8 with your first witness?

9 MS. GARFIELD: Yes, Your Honor.

10 JUDGE GIANNOPOULOS: Who is your first witness?

11 MS. GARFIELD: Gen -- General Counsel calls Jennifer  
12 Popkin.

13 JUDGE GIANNOPOULOS: All right. Come on up. Just swing  
14 over here. Set your purse up on the ledge, that's fine. And  
15 let me have you remain standing and please raise your right  
16 hand.

17 Whereupon,

18 **JENNIFER POPKIN**

19 having been duly sworn, was called as a witness herein and was  
20 examined and testified as follows:

21 JUDGE GIANNOPOULOS: All right. Have a seat. I want you  
22 to state your first and last name and spell it for the record.

23 THE WITNESS: My name is Jennifer Popkin, J-E-N-N-I-F-E-R  
24 P-O-P-K-I-N.

25 JUDGE GIANNOPOULOS: All right. Thank you.





1 Go ahead, Ms. Garfield.

2 MS. GARFIELD: Thank you, Your Honor.

3 **DIRECT EXAMINATION**

4 Q BY MS. GARFIELD: Ms. Popkin, were you subpoenaed to  
5 appear today?

6 A Yes.

7 Q And by whom are you employed, Ms. Popkin?

8 A By Phoenix Comics & Games.

9 Q Phoenix Comics & Games. And by how long have you been  
10 employed by Phoenix Comics & Games?

11 A Four years.

12 Q And what is your position with Phoenix?

13 A I'm currently the general manager at Phoenix Comics &  
14 Games?

15 Q And how long have you been the general manager?

16 A For a little over one year.

17 Q Okay. Is Phoenix Comics & Games a retail store?

18 A Yes.

19 Q Okay. What is the address of Phoenix Comics & Games?

20 A 113 Broadway East, Seattle, Washington 98102.

21 Q Thank you. Is there a Starbucks nearby Phoenix?

22 A Yes, there is.

23 Q And can you describe how close it is? The proximity  
24 between Phoenix and - and the Starbucks?

25 A Yeah. I would say it's, like, 300 feet. One business is

1     between the two things.

2     Q     All right.

3     A     A cell phone store.

4     Q     And during your employment with Phoenix, have you been a  
5     customer at that Starbucks?

6     A     Yes.

7     Q     Okay. And if you recall, directing your attention --  
8     MS. GARFIELD: Strike that.

9     Q     BY MS. GARFIELD: Directing your attention to January  
10    2022, if you recall, about how often would you go to Starbucks,  
11    let's say in a given week?

12    A     Five to six times a week. Sometimes more.

13    Q     Okay. Were there occasions in January 2022 when you went  
14    to Starbucks at the Starbucks near Phoenix more than once a  
15    day?

16    A     Most definitely, yes.

17    Q     Okay. Do you recall being -- when you went to that  
18    Starbucks near Phoenix, do you recall being helped by a barista  
19    named Rachel?

20    A     Yes.

21    Q     Do you see Rachel in the courtroom today?

22    A     Yes, I do.

23    Q     Where is she?

24    A     She's right here.

25           MS. GARFIELD: Okay. I'd like the record to reflect the

1 witness has designated the GC's representative Rachel Ybarra as  
2 the barista she saw.

3 JUDGE GIANNOPOULOS: Okay.

4 MS. GARFIELD: Thank you, Your Honor.

5 JUDGE GIANNOPOULOS: Counsel, is -- is Ms. Ybarra -- is  
6 she going to be a witness?

7 MS. GARFIELD: Yes.

8 JUDGE GIANNOPOULOS: She needs to be sequestered.

9 MS. GARFIELD: She's the representative.

10 JUDGE GIANNOPOULOS: She needs to be sequestered. It  
11 doesn't -- it doesn't -- she's not an alleged discriminatee.  
12 So let's take some time and sequester her.

13 I'm sorry. You're going to have to step out of the  
14 courtroom.

15 MS. GARFIELD: Okay.

16 JUDGE GIANNOPOULOS: Yeah, let's sequester -- let's  
17 sequester.

18 MS. GARFIELD: Sorry, Your Honor. I wasn't aware.

19 JUDGE GIANNOPOULOS: No, that's okay. No worries.

20 (Counsel confer)

21 JUDGE GIANNOPOULOS: Okay. Let the record reflect that  
22 Ms. Ybarra has stepped away from the courtroom, but the witness  
23 identified her so I would say, not an issue. No harm, no  
24 foul -- not to paraphrase a basketball rule, but go ahead.

25 Go ahead, Ms. Garfield.

1 MS. GARFIELD: Okay, Your Honor.

2 Q BY MS. GARFIELD: At the beginning of the year, 2022, were  
3 you aware, Ms. Popkin, of a union campaign at the Starbucks  
4 near Phoenix?

5 A Yes.

6 Q And how were you aware of that, ma'am?

7 A I'm an avid newsreader, so I was aware through media and  
8 news stories. I also am there a lot, and also people who work  
9 at that Starbucks come into the comic book store sometimes, so  
10 I'd hear it discussed.

11 JUDGE GIANNOPOULOS: And Ms. Popkin, this is the store  
12 that's near the intersection of Broadway and Denny?

13 THE WITNESS: Yes.

14 JUDGE GIANNOPOULOS: Yeah. Okay.

15 MS. GARFIELD: Okay.

16 JUDGE GIANNOPOULOS: Go ahead, General Counsel.

17 Q BY MS. GARFIELD: Directing your attention to January  
18 26th, do you recall visiting the Starbucks on Broadway and  
19 Denny that day?

20 A I'm sorry, Ms. Garfield. I didn't hear what you said.  
21 What day?

22 Q Okay. January 26th.

23 JUDGE GIANNOPOULOS: Okay.

24 Q BY MS. GARFIELD: Directing your attention to January  
25 26th, do you recall visiting the Starbucks on that day?

1 A Yes.

2 Q Okay. Do you recall having a conversation on that day,  
3 January 26th, with Rachel Ybarra?

4 A Yes. To the best of my recollection, yes.

5 Q Can you tell us, please, Ms. Popkin, what did you say and  
6 what did Ms. Ybarra say?

7 A I went in to get a coffee. I said, do you guys have any  
8 flyers or anything to put up in our store -- we have a  
9 community board in our store -- that I could take back? And  
10 she said, I have buttons. And I said, oh, I'll take some  
11 buttons and put them out for my employees. And she went to get  
12 me the buttons.

13 Q Okay. Did she, in fact, give you buttons that day?

14 A She did. Yeah.

15 Q Okay.

16 MS. GARFIELD: At this point, I'd like to have it marked  
17 as GC-2.

18 JUDGE GIANNPOULOS: Okay.

19 **(General Counsel Exhibit Number 2 Marked for Identification)**

20 Q BY MS. GARFIELD: Showing you what's marked as GC-2. Can  
21 you identify those for us?

22 A Yeah. Those are the buttons that she gave me.

23 Q Thank you very much.

24 MS. GARFIELD: I only have one, Your Honor.

25 JUDGE GIANNPOULOS: All right. I'm assuming you can get

1 more?

2 MS. GARFIELD: Yes.

3 JUDGE GIANNOPOULOS: All right.

4 Bruce, General Counsel's 2 is the button.

5 THE COURT REPORTER: Yes.

6 JUDGE GIANNOPOULOS: All right. What would you like to do  
7 with it?

8 MS. GARFIELD: I would like to offer it.

9 JUDGE GIANNOPOULOS: All right. Any objections from the  
10 Union?

11 MS. MULTHAUP: No objections.

12 JUDGE GIANNOPOULOS: From Respondent?

13 MS. SAADE: No.

14 JUDGE GIANNOPOULOS: All right. General Counsel's 2 is  
15 admitted.

16 **(General Counsel Exhibit Number 2 Received into Evidence)**

17 MS. GARFIELD: Thank you, Your Honor.

18 JUDGE GIANNOPOULOS: Ms. Popkin, let me ask you, when you  
19 walked in and your testimony was you said to Rachel, do you  
20 have any flyers? How did that flyer discussion come about? I  
21 mean, flyers about what? I'm assuming just because we're here  
22 it's flyers about the union and the fact that this is a union  
23 button, but tell me a little bit more about this discussion,  
24 that you walked in and you had this discussion with Rachel.

25 THE WITNESS: It was flyers about the union.



1 JUDGE GIANNOPOULOS: Yeah.

2 THE WITNESS: They'd been out on telephone poles, sort of  
3 taped up in the neighborhood. I wanted to offer our community  
4 space. I considered this a community event, basically, I mean,  
5 so --

6 JUDGE GIANNOPOULOS: Okay.

7 THE WITNESS: -- I wanted to offer it as a -- like, I  
8 wanted as the manager to put it up on our community board and  
9 I -- I -- to the best of my recollection, I was aware that they  
10 had buttons, specifically --

11 JUDGE GIANNOPOULOS: Okay.

12 THE WITNESS: -- because I'd seen them on people and I  
13 wanted to offer them to my employees to take if they wanted  
14 them.

15 JUDGE GIANNOPOULOS: Okay. But when you walked in, you  
16 said, do you have any flyers? Did you say, give me some union  
17 flyers? Was there a discussion about the union drive going on?  
18 Or did you just walk in and say, hey, give me some flyers? And  
19 it was kind of common knowledge of the store in the area and of  
20 you as a customer as to what you were talking about?

21 THE WITNESS: Yeah.

22 JUDGE GIANNOPOULOS: I really don't know.

23 THE WITNESS: I would say that's correct, actually. I'd  
24 been in enough. Yeah, I don't -- I said -- I don't remember  
25 exactly if I said flyers or promotional stuff or anything about

1 this that regards to the effort, specifically what item.

2 JUDGE GIANNOPOULOS: Uh-huh.

3 THE WITNESS: But I asked for anything she had to put in  
4 our store.

5 JUDGE GIANNOPOULOS: Okay.

6 THE WITNESS: And it was common knowledge. I mean, it's  
7 not a secret that this was happening.

8 JUDGE GIANNOPOULOS: Okay.

9 THE WITNESS: So --

10 JUDGE GIANNOPOULOS: Okay. So then she gave you one of  
11 these buttons?

12 THE WITNESS: She gave me a few of the buttons. Yeah.

13 JUDGE GIANNOPOULOS: And then what did you do?

14 THE WITNESS: I took them back to my store and I put them  
15 on a central console and said, if anybody wants these, there's  
16 buttons from Starbucks, from the union effort.

17 JUDGE GIANNOPOULOS: All right. Go ahead. Sorry, Ms.  
18 Garfield, for cutting you off.

19 MS. GARFIELD: Thank you.

20 Q BY MS. GARFIELD: So Rachel, to give you the buttons, she  
21 left the floor; is that correct?

22 A Uh-huh. Briefly, yeah.

23 Q How long would you estimate from the time -- just let me  
24 finish my question, please -- from the time she -- she said she  
25 had buttons until the time she brought you the buttons, how



1 long -- how much time had elapsed?

2 A Maybe 20, 30 seconds.

3 Q Okay.

4 A She walked to the back and then she walked right back out.

5 Q Okay. And during that time, did you see any customer who  
6 was left unattended?

7 A No. I was the only person in line at the time.

8 Q Okay. When you had the conversation with Rachel about the  
9 buttons --

10 A Uh-huh.

11 Q -- or the flyers, do you recall whether anyone else  
12 employed by Starbucks was standing nearby?

13 A Yeah. There were two or three other people behind the --  
14 behind the barista area, behind the bar.

15 Q Okay. And did -- did -- were you able to -- did you know  
16 any of them to be managers of Starbucks?

17 A No. At the time, I did not know who the manager was.

18 Q Okay. Did you -- did you later learn that the manager was  
19 there?

20 A I didn't learn that the manager was there, but I -- I did  
21 later learn who the manger was.

22 Q Okay. Fair enough. Fair enough.

23 MS. GARFIELD: I have nothing further, Your Honor.

24 JUDGE GIANNOPOULOS: All right. For the Union? Any  
25 questions of this witness?

1 MS. MULTHAUP: No, thank you.

2 JUDGE GIANNOPOULOS: All right. For the Respondent?

3 MS. SAADE: Yes, please, Your Honor.

4 **CROSS-EXAMINATION**

5 Q BY MS. SAADE: Good aft -- good morning, Ms. Popkin. My  
6 name's Renea Saade, and I'm going to ask you a few questions.  
7 I've taken my mask off, so hopefully, you can understand me a  
8 little better, but if at any point you need me to raise my  
9 voice or repeat a question, please let me know.

10 You indicated you were subpoenaed to testify today?

11 A Yes.

12 Q Okay. What day did you receive a subpoena?

13 JUDGE GIANNOPOULOS: If you recall.

14 A I don't honestly recall what day I received the subpoena.

15 Q Was it more than five days ago?

16 A Yes, it was more than five days ago.

17 Q And did you receive a witness fee to be here?

18 MS. GARFIELD: Objection.

19 JUDGE GIANNOPOULOS: What is -- what is the relevance?

20 MS. SAADE: I was just going to ask what -- if she did,  
21 when did she receive it. If that would help refresh her memory  
22 as to when she received the subpoena.

23 JUDGE GIANNOPOULOS: That -- still, is there -- is there  
24 an issue? Do you need to see the subpoena?

25 MS. SAADE: No, Your Honor. I believe it's relevant to

1 the other topics that we're going to have testimony on today.

2 JUDGE GIANNOPOULOS: All right. I don't think the witness  
3 fee is relevant. Unless you think -- unless you're claiming  
4 there's some sort of bias just because she received a witness  
5 fee?

6 MS. SAADE: I -- I think there could also be bias if she  
7 did not receive a witness fee, Your Honor.

8 JUDGE GIANNOPOULOS: All right. Move on.

9 MS. SAADE: Okay.

10 Q BY MS. SAADE: Ms. Popkin, you indicated that you work as  
11 the general manager at a comic shop?

12 A Yes.

13 Q Did you have to let your coworkers know that you would be  
14 absent from work today?

15 MS. GARFIELD: Objection.

16 JUDGE GIANNOPOULOS: Sustained.

17 Q BY MS. SAADE: You indicated --

18 JUDGE GIANNOPOULOS: Ms. Saade, how is that relevant?

19 MS. SAADE: I think it's relevant to the -- to the other  
20 issues that are going to be at play in this case --

21 JUDGE GIANNOPOULOS: Well, get to the other issues first  
22 and then you -- you can circle back. I don't see how that's  
23 relevant, so move on.

24 MS. SAADE: If you'd indulge me a little bit, if I can ask  
25 her some other questions and maybe come back to that question,

1 Your Honor.

2 JUDGE GIANNOPOULOS: Ms. Popkin, why don't you step out of  
3 the room for a second?

4 THE WITNESS: Okay.

5 JUDGE GIANNOPOULOS: I'll just ask you to step out of the  
6 room. You can take your purse with you.

7 THE WITNESS: Thank you.

8 JUDGE GIANNOPOULOS: All right. Let the record reflect  
9 the witness has left the room.

10 All right. Ms. Saade, make an offer of proof. What --  
11 where are you going with this?

12 MS. SAADE: Ms. Popkin has indicated that she is a regular  
13 at the store, that she has conversations with other people  
14 there. I'd like to know if she had had any personal  
15 conversations with the other partner that is identified in the  
16 complaint as somebody who -- and that we've talked about in our  
17 opening statements about getting a subpoena and if there's been  
18 any conversations about them testifying in the hearing, calling  
19 out about the hearing. I think it's relevant as to whether or  
20 not she had to make schedule arrangements, if she had that  
21 conversation with anybody else.

22 JUDGE GIANNOPOULOS: You can certainly ask her if she's  
23 discussed the facts to which she testified with anyone, if  
24 she's discussed this issue with anyone at the store, or anyone  
25 else. You can ask any of that. You can certainly ask that.

1 But whether she told somebody that she was calling out, that's  
2 not relevant. Focus on the relevant issue. Clearly, it's  
3 relevant if she's discussed her testimony today with anyone.  
4 If she's discussed it with any of the Starbucks employees,  
5 that's relevant. But get to that, okay?

6 MS. SAADE: I will.

7 JUDGE GIANNOPOULOS: All right.

8 MS. SAADE: I will.

9 JUDGE GIANNOPOULOS: So get to that as opposed to kind of  
10 dancing around.

11 So we can bring the witness back, if we could.

12 JUDGE GIANNOPOULOS: You can ask if anyone's paid her for  
13 her time other than the witness fee. You can ask if the  
14 Union's given her anything, but the witness fee is how it  
15 works.

16 MS. SAADE: I believe, though, Your Honor, if she hasn't  
17 received one, that's relevant.

18 JUDGE GIANNOPOULOS: All right. Come on, witness. Come  
19 back in, Ms. Popkin. Have a seat.

20 And the way it works, General Counsel -- or sorry, Ms.  
21 Saade, is that they don't get it until later.

22 MS. SAADE: They have to request for it. So I --

23 JUDGE GIANNOPOULOS: Have a seat. Have a seat.

24 Go ahead, next question.

25 MS. SAADE: May I ask her if she's requested one?

1 JUDGE GIANNOPOULOS: Go ahead. You -- let me say this for  
2 the record: The way things work in NLRB proceedings, the  
3 request for witness fees don't come until after the witness is  
4 done, until the hearing is over. They don't submit pre -- they  
5 don't submit pre-request vouchers. So no, you can't ask. Next  
6 question.

7 MS. GARFIELD: Are we on the record?

8 JUDGE GIANNOPOULOS: We're on the record.

9 Are we not on the record, Bruce?

10 THE COURT REPORTER: We're on the record.

11 JUDGE GIANNOPOULOS: Go ahead. Next question.

12 **RESUMED CROSS-EXAMINATION**

13 Q BY MS. SAADE: Ms. Popkin, did you speak to anyone who  
14 works at Starbucks before you came here today to testify?

15 JUDGE GIANNOPOULOS: About your testimony or about the  
16 issues of this case only. I don't want to know if you went and  
17 ordered a double cream Frappuccino.

18 THE WITNESS: Neither. I haven't been to that Starbucks  
19 in a while.

20 JUDGE GIANNOPOULOS: All right. Next question.

21 Q BY MS. SAADE: Your -- Ms. Popkin, have you -- on that day  
22 in question, when you spoke to Rachel Ybarra on that day, when  
23 was the -- what was the time before that that you had seen her?

24 A I honestly don't remember. I saw her a lot. I was  
25 there -- I lived across the street, so I was there a lot, but I

1 don't remember specifically when.

2 Q So you lived across the street and worked next door?

3 A Yes. That's correct.

4 Q And on that January 26th day, approximately how -- how  
5 much time had passed between the first time you saw any sort of  
6 union -- union information posted in the neighborhood to the  
7 time that you asked when you came in the store on that day?

8 A I honestly could not tell you. It -- it was around for a  
9 while before that, but I don't -- I don't know exactly.

10 Q Prior to having that conversation with Ms. Ybarra on that  
11 day, did you ever speak to her about the union activity that  
12 was occurring at the store?

13 A Yes.

14 Q On how many occasions?

15 A A few, but I don't remember exactly how many. More than  
16 two and less than five.

17 Q And where would you have those conversations?

18 A Sometime --

19 MS. GARFIELD: Objection. Beyond the scope.

20 JUDGE GIANNOPOULOS: No. Overruled.

21 A In either on the street or I would often ask her what was  
22 up because I would see the flyers.

23 JUDGE GIANNOPOULOS: These conversations, were they all  
24 related to you either going in for coffee or coming out for a  
25 coffee or being in the neighborhood in general?

1 THE WITNESS: Yeah.

2 JUDGE GIANNOPOULOS: Like, were you friends with Ms.  
3 Ybarra? Would you go out and --

4 THE WITNESS: No.

5 JUDGE GIANNOPOULOS: -- socialize with her after work  
6 hours?

7 THE WITNESS: No. I don't personally know Ms. Ybarra. I  
8 didn't know her last name until this. I --

9 JUDGE GIANNOPOULOS: Okay. All right. Go ahead. Next  
10 question.

11 Q BY MS. SAADE: Can you describe where you were standing  
12 when you had that conversation with Ms. Ybarra?

13 A Yeah. I was about -- maybe a foot in front of, I think,  
14 the second of the two registers nearest the -- the case full of  
15 food. I think that was the one I was at.

16 Q And did you order a coffee at the same time?

17 A If -- I can't remember exactly if I ordered it or if I put  
18 it in through the app to be picked up at the place at the time.

19 Q So you came in for purposes of picking up a coffee?

20 A Yes.

21 Q And was Ms. Ybarra behind the register or behind the bar?

22 A Yes.

23 Q Had you -- prior to that occasion, had you spoken to Ms.  
24 Ybarra at any point in time about getting some union-related  
25 materials for the store?



1 A I don't think I'd specifically asked for any before then.  
2 No.

3 Q Had she offered you any before then?

4 A No, I don't think so.

5 Q You're not certain, though, one way or the other?

6 A She'd never said, I have them, do you want them, or  
7 anything like that. It was no discussion of them before that  
8 time.

9 Q Had Ms. Ybarra ever come into the store wearing her green  
10 apron --

11 A No.

12 Q -- to bring you any union materials?

13 JUDGE GIANNOPOULOS: When you say, "the store", what store  
14 are you talking about?

15 MS. SAADE: Oh, I'm sorry.

16 Q BY MS. SAADE: Has -- has Ms. Ybarra ever come into the  
17 comic book store wearing her green apron bringing you union  
18 materials?

19 A No.

20 Q And you mentioned that she left the -- her workstation to  
21 leave the floor. Did you have eyes on her the entire path that  
22 she took?

23 A No. There's a -- there's a -- in the layout of the store,  
24 there's the bar in front of you and then there's sort of an  
25 entrance to a back area. She went back there for a minute and

1     then came back out.

2     Q     So it's fair to say that she went to kind of the back of  
3     the store?

4     A     She went out of my sight. I don't know where she went.  
5     It could have been just around the corner. I have no idea.

6     Q     Did Ms. Ybarra or anyone working at Starbucks indicate to  
7     you that Ms. Ybarra was on a break from work?

8     A     No.

9     Q     Did Ms. Ybarra indicate to you that she would have to  
10    bring those -- those items to you later when she was on break?

11           JUDGE GIANNOPOULOS: All right. No. I -- I'm assuming  
12    it's no. You asked for these --

13           THE WITNESS: I don't think so. No.

14           JUDGE GIANNOPOULOS: -- you asked for something --

15           THE WITNESS: To be honest, I can't remember if she  
16    literally handed them to me in the store or if she said she'd  
17    hand them to me later. I believe she handed them to me in the  
18    store.

19           JUDGE GIANNOPOULOS: Okay.

20    Q     BY MS. SAADE: And you said she handed you a few buttons.  
21    How many -- how many was it?

22    A     Three or four. A small handful of buttons.

23    Q     Did she come out with a bag of buttons?

24    A     No.

25    Q     Did you ever see Ms. Ybarra in the store with a bag of

1 buttons?

2 A No.

3 Q Did she also give you any flyers on that day?

4 A I don't think she did give me a flyer that day. No.

5 Q Has she given you flyers on any other day while in the  
6 store?

7 A No.

8 Q Did anyone -- when Ms. Ybarra left to go get these items  
9 for you, did she ask anyone to cover her station at the  
10 register?

11 A I don't remember.

12 Q Did anybody stop Ms. Ybarra on her way to bring the items  
13 to you?

14 A No.

15 Q Did you overhear anybody say anything to her --

16 A No.

17 Q -- about it? How did you know to ask Ms. Ybarra for --  
18 for union-related materials?

19 A I didn't specifically know to ask Ms. Ybarra. I'd seen a  
20 number of people who were at the store as employees that I knew  
21 were part of -- or I mean, I kind of assumed everybody there,  
22 to be honest, was part of the unionization effort. I didn't  
23 understand that there were -- to this day, I don't know if  
24 there weren't people, but I was just talking to people because  
25 she's in the neighborhood. And I said, do you guys have any of

1 the --

2 JUDGE GIANNOPOULOS: But the day you walked in and asked  
3 for flyers and then she came back and gave you these buttons,  
4 was Ms. Ybarra the barista that was serving you? Like, when  
5 you walked in, if you'll recall --

6 THE WITNESS: Yes.

7 JUDGE GIANNOPOULOS: -- was someone else serving you and  
8 you pointed out Ms. Ybarra --

9 THE WITNESS: No.

10 JUDGE GIANNOPOULOS: -- and asked Ms. Ybarra for flyers?

11 THE WITNESS: No, it was Ms. Ybarra at the counter.

12 JUDGE GIANNOPOULOS: So she was serving you, and then  
13 that's how the conversation came up?

14 THE WITNESS: Yeah.

15 JUDGE GIANNOPOULOS: All right. Go ahead.

16 THE WITNESS: She was at the main register.

17 JUDGE GIANNOPOULOS: All right. Go ahead, Ms. Saade.

18 Q BY MS. SAADE: You indicated that there was no -- you  
19 didn't see any other customers in the store?

20 A I don't think that there was anybody in the store. There  
21 might have been people waiting for to-go orders, but I didn't  
22 register them at the time, if that's true.

23 Q What time of day was this?

24 A Early afternoon.

25 Q Was that the first time that you asked for any

1 union-related items in the store?

2 A Yes.

3 Q Has that been the last time you've asked for union-related  
4 items in the store?

5 A I believe it was.

6 Q Who did -- did Ms. Ybarra reach out to you and ask you to  
7 testify in this hearing?

8 MS. GARFIELD: Objection.

9 JUDGE GIANNOPOULOS: Sustained.

10 Q BY MS. SAADE: Have you spoken to --

11 JUDGE GIANNOPOULOS: The answer was no. She answered no.  
12 So go ahead.

13 Q BY MS. SAADE: Have you posted on social media about your  
14 testimony today?

15 A No.

16 Q Posted anything that -- to indicate that you're going to  
17 be testifying in a union-related hearing?

18 A No. I don't engage in social media.

19 Q So why was it that you asked for the items while you were  
20 in the store if you run into Ms. Ybarra out on the street or  
21 other Starbucks workers in the comic store?

22 MS. GARFIELD: Objection.

23 JUDGE GIANNOPOULOS: What is the relevance of this?

24 MS. SAADE: If she explains why, maybe it's because she  
25 had a prior conversation with someone or that they came into

1 the store --

2 JUDGE GIANNOPOULOS: You -- you can ask her why. I mean,  
3 sustained. You can ask her if she had a prior conversation  
4 with someone, but I don't think it's relevant as to why she  
5 chose to ask then.

6 MS. SAADE: Your Honor, if -- if any of the Starbucks  
7 members are offering them to other customers and she overheard  
8 that, I mean, that's relevant. I -- I --

9 JUDGE GIANNOPOULOS: Then, well, ask her that.

10 MS. SAADE: I --

11 JUDGE GIANNOPOULOS: Ask her specifically if you overheard  
12 any Starbucks employees offering these flyers or buttons to  
13 other -- other people.

14 Did you?

15 THE WITNESS: No. I --

16 JUDGE GIANNOPOULOS: Next question.

17 MS. SAADE: Okay.

18 Q BY MS. SAADE: Ms. Popkin, you're here today to testify.

19 Do you understand why -- why you've been asked to testify?

20 A I think so.

21 Q And why is that?

22 A To my understanding, there is some kind of complication  
23 between Rachel giving me buttons and seemingly Starbucks, as to  
24 whether or not that's an okay thing to do or whether it was not  
25 an okay thing to do. I don't know much beyond that.

1 Q And was it someone who works for Starbucks that gave you  
2 that information?

3 A No, it was Alice --

4 MS. GARFIELD: Objection. Objection.

5 JUDGE GIANNOPOULOS: That's all right. Next, move on.  
6 Next question.

7 THE WITNESS: It was inferred, to be honest with you.

8 JUDGE GIANNOPOULOS: That's okay. Next question.

9 MS. SAADE: Can I just have a moment?

10 JUDGE GIANNOPOULOS: Absolutely.

11 MS. SAADE: Thank you.

12 JUDGE GIANNOPOULOS: Absolutely.

13 Q BY MS. SAADE: Have you ever worked for Starbucks?

14 A I did work for Starbucks, yes, when I was 16.

15 Q And when you worked at Starbucks, did they have a policy  
16 against giving gifts to customers?

17 MS. GARFIELD: Objection.

18 JUDGE GIANNOPOULOS: What is the relevance of her -- I'll  
19 let you go into her employment at Starbucks, but what's -- I  
20 don't see the relevance about the gift policy.

21 MS. SAADE: I think one of the issues in this case, Your  
22 Honor, is going to be -- can I -- can I give you that offer of  
23 proof outside of the witness' presence, please?

24 JUDGE GIANNOPOULOS: Yes. Ma'am -- unfortunately, Ms.  
25 Popkin, I mean, this is the way it works --

1 THE WITNESS: Okay.

2 JUDGE GIANNOPOULOS: -- I'm going to have to ask you to  
3 step out of the room for a second, sorry.

4 THE WITNESS: Not a problem.

5 JUDGE GIANNOPOULOS: All right. The witness has left the  
6 courtroom. Go ahead, Ms. Saade.

7 MS. SAADE: So Your Honor, one of the, I think, material  
8 issues in this case is whether or not, Starbucks had policies  
9 and practices in place and people knew about them and that they  
10 were implemented in a -- in a consistent way and that -- that  
11 the conversations that had -- were had were just business as  
12 usual and that they were lawful conversations. If Ms. Popkin  
13 worked when she was 16 and she's aware of these policies, I  
14 think that's relevant in establishing Starbucks' defense here  
15 and we're going to hear probably testimony from other  
16 witnesses. She's on the stand. I think that the information  
17 she has is relevant to our defenses --

18 JUDGE GIANNOPOULOS: I --

19 MS. SAADE: -- as well as the case-in-chief.

20 JUDGE GIANNOPOULOS: -- okay. I think it's -- it  
21 certainly is relevant as to what's going on now. You know, I  
22 don't know where she -- where she worked. I'll let you probe  
23 as to where she worked and I don't want to -- I don't know her  
24 name -- I don't know her age, I mean, but 16 seems a long time  
25 ago. I think it's a bit much, quite honestly. This -- it's



1 certainly relevant now and you probably have better witnesses  
2 to testify -- or to give evidence on that issue about how long  
3 these policies -- what the policies are, what the policies were  
4 when Ms. Ybarra was working there, how long they've had them.  
5 I think it's better through -- through witnesses more  
6 knowledgeable than someone who worked there once when they were  
7 16.

8 MS. SAADE: Trust me. I'm not going to rely on --

9 JUDGE GIANNOPOULOS: I'll let you --

10 MS. SAADE: -- her testimony and I'll --

11 JUDGE GIANNOPOULOS: -- I'll let you -- I'll let you probe  
12 a little bit, but it's -- we're going a bit far field.

13 MS. SAADE: -- I understand.

14 JUDGE GIANNOPOULOS: All right.

15 MS. SAADE: Thank you.

16 JUDGE GIANNOPOULOS: If we could bring Ms. Popkin back.

17 Ms. Popkin, I'm sorry you're getting your exercise for the  
18 day.

19 THE WITNESS: I don't mind a bit.

20 JUDGE GIANNOPOULOS: That's how this -- that's how the  
21 process works sometimes.

22 THE WITNESS: I'm on my feet eight hours a day.

23 JUDGE GIANNOPOULOS: That's okay. So if could just have a  
24 seat again.

25 Let the record reflect Ms. Popkin's is back in the witness

1 stand. Go ahead, Ms. Saade.

2 MS. SAADE: Thank you, Your Honor.

3 Q BY MS. SAADE: Ms. Popkin, did you work in a Seattle-  
4 located Starbucks?

5 A No, I did not.

6 Q When you did work at Starbucks, were you aware that there  
7 was policy against giving gifts to customers?

8 A I was 16, and I am 41. I couldn't tell you anything about  
9 what Starbucks' policy was back then.

10 JUDGE GIANNOPOULOS: All right. Move on now.

11 Q BY MS. SAADE: Okay, thank you. Yes. I'm -- I appreciate  
12 your time and patience, Ms. Popkin. I have no further  
13 questions.

14 JUDGE GIANNOPOULOS: All right. General Counsel, any  
15 rebut or redirect?

16 MS. GARFIELD: Redirect. I have one or two questions,  
17 Your Honor.

18 JUDGE GIANNOPOULOS: Okay.

19 **REDIRECT EXAMINATION**

20 Q BY MS. GARFIELD: Okay. Ms. -- Ms. Popkin, in -- in the  
21 month of January 2022, when you went to Starbucks --

22 A Um-hum.

23 Q -- the Broadway and Denny Starbucks --

24 A Um-hum.

25 Q -- did -- did you observe whether any of the baristas



1     there were wearing buttons similar to the one that you  
2     identified?

3     A     No, I don't remember.

4     Q     You don't remember.

5     A     I don't believe so.

6     Q     Okay. Did you -- were you aware that -- did -- did any of  
7     them wear any sort of Union paraphernalia that you -- as best  
8     you can recall?

9     A     Not to my knowledge, not while they were working.

10    Q     Okay. Thank you.

11           MS. GARFIELD: I have nothing further.

12           JUDGE GIANNOPOULOS: Ms. Multhaub, anything from you?

13           MS. MULTHAUP: No, thank you.

14           JUDGE GIANNOPOULOS: All right. From Starbucks, any  
15    questions based on that limited redirect?

16           MS. SAADE: No, thank you.

17           JUDGE GIANNOPOULOS: All right. Ms. Popkin, thank you for  
18    coming in today. You're done. There is a sequestration order  
19    in place, so please don't discuss your testimony or the facts  
20    in this case with anybody --

21           THE WITNESS: You got it.

22           JUDGE GIANNOPOULOS: -- until the case is over. And  
23    someone will inform you when the case is over.

24           Ms. Garfield, I'm assuming you'll let her know.

25           MS. GARFIELD: Of course.

1 JUDGE GIANNOPOULOS: But I appreciate you coming in and  
2 you're done. You can leave.

3 THE WITNESS: Thank you.

4 JUDGE GIANNOPOULOS: Thank you. All right. Let the  
5 record reflect Ms. Popkin has left the courtroom.

6 Ms. Garfield?

7 MS. GARFIELD: May we go off the record --

8 JUDGE GIANNOPOULOS: Yes.

9 MS. GARFIELD: -- the witness is on the 29th floor.

10 JUDGE GIANNOPOULOS: Let's go off the record. That's all  
11 right.

12 (Off the record at 10:57 a.m.)

13 JUDGE GIANNOPOULOS: All right.

14 MS. GARFIELD: General Counsel calls Rachel Ybarra.

15 JUDGE GIANNOPOULOS: All right. Please raise your right  
16 hand.

17 Whereupon,

18 **RACHEL YBARRA**

19 having been duly sworn, was called as a witness herein and was  
20 examined and testified as follows:

21 THE WITNESS: Yes.

22 JUDGE GIANNOPOULOS: Have a seat. State your first and  
23 last name and spell it for the record.

24 THE WITNESS: Rachel Ybarra. R-A-C-H-E-L Y-B-A-R-R-A.

25 JUDGE GIANNOPOULOS: All right. Go ahead, General



1 Counsel.

2 MS. GARFIELD: Thank you, Your Honor.

3 **DIRECT EXAMINATION**

4 Q BY MS. GARFIELD: Ms. Ybarra, by -- by who are you  
5 employed?

6 A Starbucks.

7 Q Okay. And how long have you worked for Starbucks?

8 A About two-and-a-half years.

9 Q Are you presently assigned to any particular Starbucks  
10 store?

11 A Yes. Broadway and Denny.

12 Q Broadway and Denny. Is that also -- I think that's store  
13 number 304; is that correct?

14 A Correct.

15 Q Okay. And how long have you worked at the Broadway and  
16 Denny store?

17 A I have worked there for roughly two years. The first six  
18 months, I was between a few stores because of COVID and some  
19 vandalism to the store.

20 Q And at the store, Broadway and Denny, when I was -- going  
21 forward, when I refer to the store, Ms. Ybarra, I'm referring  
22 to the Broadway and Denny store, okay?

23 A Understood.

24 Q Okay. What is your position at the store?

25 A I'm a barista.



1 JUDGE GIANNOPOULOS: And what is the address of the store;  
2 do you know?

3 THE WITNESS: 101 Broadway East.

4 JUDGE GIANNOPOULOS: All right.

5 Q BY MS. GARFIELD: Okay. You're a barista. And what are  
6 your general duties as a barista?

7 A Serve customers in a variety of ways, including like,  
8 keeping the supplies we use stocked up and supporting service  
9 of customers.

10 Q Okay. Do you --

11 JUDGE GIANNOPOULOS: Do you make coffee?

12 THE WITNESS: Making -- yeah, making drinks.

13 JUDGE GIANNOPOULOS: Okay.

14 Q BY MS. GARFIELD: Do you collect money for coffee?

15 A Yeah, I work the register. I clean the store.

16 Q Um-hum. Fair enough. Fair enough. And who is your store  
17 manager?

18 A Pam Mariscal.

19 Q Mariscal?

20 A Um-hum.

21 Q Okay. And how long has Pam been your store manager?

22 A The entirety of my time at Starbucks.

23 Q So at least two years; is that correct?

24 A Correct.

25 Q Okay. And now directing your attention to December 2021,

1 were you aware of a union organizing drive at the store -- the  
2 Broadway and Denny store?

3 A I was.

4 Q Okay. I would like to show you what has been marked as  
5 GC-3.

6 MS. SAADE: Your Honor, should we -- I mean, I propose  
7 that we mark this as GC-4 because the copy of the button is  
8 going to be GC-3.

9 JUDGE GIANNOPOULOS: It -- it doesn't matter either way.

10 MS. SAADE: Okay.

11 JUDGE GIANNOPOULOS: It doesn't matter. We can -- we  
12 can -- do you have these pre-marked?

13 MS. GARFIELD: No.

14 JUDGE GIANNOPOULOS: I -- I don't care how we do it.

15 MS. GARFIELD: I can -- I can make it GC-4 if that's --

16 MS. SAADE: It's up to you.

17 JUDGE GIANNOPOULOS: That's -- that's fine.

18 MS. SAADE: I -- I just proposed it as a suggestion, so.

19 JUDGE GIANNOPOULOS: Let's make this -- let's make this  
20 GC-4, then.

21 **(General Counsel Exhibit Number 4 Marked for Identification)**

22 MS. GARFIELD: Okay. Showing with you what's been marked  
23 as GC-4. Thank you.

24 Q BY MS. GARFIELD: Showing you what's been marked as GC-4,  
25 Ms. Ybarra. Can you identify this document?

1 A This is the subpoena I received to be at the R hearing for  
2 my store.

3 Q Okay. And -- and when you say R hearing, is that the  
4 hearing about the election?

5 A The representation hearing, yes.

6 Q Fair enough.

7 MS. GARFIELD: GC moves for the admission of Exhibit 4 --  
8 GC-4.

9 JUDGE GIANNOPOULOS: All right. Any objections from the  
10 Union?

11 MS. MULTHAUP: No.

12 JUDGE GIANNOPOULOS: From Starbucks?

13 MS. SAADE: May I just ask one questions of the witness  
14 about offer of proof -- voir dire?

15 JUDGE GIANNOPOULOS: Voir dire? You can voir dire the  
16 witness.

17 **VOIR DIRE EXAMINATION**

18 Q BY MS. SAADE: Ms. Ybarra, good af -- good morning. My  
19 name is Renea Saade. Did you -- can you advise us how you  
20 received a copy of this subpoena?

21 A To my recollection, I know that -- I know for sure that I  
22 received an email. I can't remember for sure if I got one by  
23 mail.

24 Q And what day did you receive it?

25 A I don't know for sure.



1 Q Did you produce a copy -- this copy of the subpoena or was  
2 it provided to you today --

3 A Today?

4 Q -- for the purposes of this hearing. Did you bring this  
5 here?

6 A It was provided to me.

7 Q Did you compare this copy against the version of the  
8 subpoena that you received, back in January?

9 A At this time, no.

10 MS. SAADE: Your Honor, I don't have any other questions,  
11 but I -- I do have an objection to it because it's not the  
12 subpoena -- it's not a copy of the subpoena she received. It's  
13 a copy of a subpoena that was issued that has no service of  
14 process attached to it and --

15 JUDGE GIANNOPOULOS: Okay. I agree. I does not have --  
16 it's not the subpoena -- this was not the actual subpoena that  
17 you received, correct?

18 THE WITNESS: Not -- no.

19 JUDGE GIANNOPOULOS: Okay. But is there anything -- as  
20 you look at this document, is there -- and you -- and you think  
21 about the subpoena you actually received is there -- what -- is  
22 there anything different that -- that stands out to you between  
23 this document and the subpoena you actually received?

24 THE WITNESS: I don't believe so.

25 JUDGE GIANNOPOULOS: All right. So I understand your

1 objection, but I'm going to overrule it and admit General  
2 Counsel's 4.

3 **(General Counsel Exhibit Number 4 Received into Evidence)**

4 MS. GARFIELD: Thank you, Your Honor.

5 **RESUMED DIRECT EXAMINATION**

6 Q BY MS. GARFIELD: Okay, Ms. Ybarra, directing your  
7 attention to January 14th. Did you have a conversation about  
8 this subpoena with anyone at your store?

9 A Yes.

10 Q And with who did you have that conversation?

11 A The manager who was filling in for my store manager,  
12 Halley Hager.

13 Q Halley Hager?

14 A Uh-hum.

15 Q So Halley Hager -- let me make sure I understand  
16 correctly. Halley Hager was filling in for Pam Mariscal?

17 A Correct.

18 Q Okay.

19 JUDGE GIANNOPOULOS: And Ms. Ybarra, you have a tendency,  
20 and this is just not an issue, but you have tendency to kind of  
21 trail off --

22 THE WITNESS: Yes.

23 JUDGE GIANNOPOULOS: -- when you're -- when you're  
24 testifying, so please keep your voice up and don't trail off.

25 THE WITNESS: Okay.

1 JUDGE GIANNOPOULOS: Keep your sentence structure -- you  
2 know, voice up -- because we're recording you. It doesn't --  
3 the microphone doesn't amplify your voice and so just want to  
4 make sure the court reporter gets your entire testimony  
5 recorded properly.

6 THE WITNESS: Got you.

7 JUDGE GIANNOPOULOS: All right.

8 THE WITNESS: Thank you.

9 MS. GARFIELD: Okay.

10 JUDGE GIANNOPOULOS: Go ahead, Ms. Garfield.

11 MS. GARFIELD: Thank you. Thank you, Your Honor.

12 Q BY MS. GARFIELD: So when Halley Hager was filling in for  
13 Pam Mariscal, is it safe to assume that Pam Mariscal was not  
14 the manager on duty that day?

15 A Yes.

16 Q Okay. And you said that you had -- you testified that you  
17 had a conversation with Halley Hager having something to do  
18 with the subpoena; is that correct?

19 A That's correct.

20 Q Okay. Where did that conversation take place, Ms. Ybarra?

21 A We were at the store.

22 Q At the store. And can you -- do you recall who said what  
23 during the conversation?

24 A I approached Halley and let her know that I had received a  
25 subpoena to be at -- in court on the date listed. I told her

1     that I believed that I would be testifying on a day that I was  
2     working, and I wanted to check with her what I would need to do  
3     to make sure it -- I -- it was okay for me to be gone. She  
4     told me that according to Starbucks policy, a subpoena is not a  
5     valid reason to miss work and that I would need to -- I would  
6     need to find someone to fill in for my shift with -- in order  
7     to avoid being disciplined.

8     Q     And what did you respond, if anything?

9     A     I acknowledged what she said and then wrote down what she  
10    said.

11   Q     Okay. And you -- you wrote down what she said; is that  
12   correct?

13   A     Correct.

14   Q     Okay. Where did you write down what she said?

15   A     I recorded it on a note app in my phone.

16   Q     Okay. And when did you write it down?

17   A     Within the -- within an hour of the interaction.

18   Q     So that would be on January 14th?

19   A     Yes.

20   Q     Okay. Within an hour. Okay. Okay. Do you -- do you  
21   remember where on your phone you wrote it down?

22   A     I wrote it -- I believe in Google Keep.

23   Q     Google Keep. What is Google Keep for us who?

24   A     It's -- it's a note app.

25   Q     It's a note app.



1 JUDGE GIANNOPOULOS: Did you say keeps or peeps?

2 THE WITNESS: Keep. Peeps would be great.

3 JUDGE GIANNOPOULOS: Okay.

4 Q BY MS. GARFIELD: Is it Google Keeps or Peeps?

5 A Keep. K-E-E-P.

6 Q Okay, fair enough. Okay. And --

7 JUDGE GIANNOPOULOS: When you went in to talk -- when  
8 you -- when you -- when you in -- when you had this discussion  
9 with Ms. Hager, tell me as best as you recall the actual words  
10 that you used -- the actual words that -- that she used. Like,  
11 did you -- I'm curious. Did -- did you tell her about the --  
12 you know, an NLRB hearing. Did you just say, I have a hearing  
13 subpoena? What were the words that you used?

14 THE WITNESS: I told her that I would be testifying in an  
15 NLR -- NLRB hearing. It was one that a couple of my coworkers  
16 were going to be at, as well. And yeah, I -- I told her that I  
17 needed to be at this hearing and that I wanted to make sure  
18 that I would be able to go without it being a problem for the  
19 store. And she told me that, according to Starbucks policy,  
20 I -- it was not a -- like, a protected use -- it was not a  
21 protected reason to miss work.

22 JUDGE GIANNOPOULOS: Okay. All right.

23 Go ahead, Ms. Garfield.

24 MS. GARFIELD: Okay.

25 Q BY MS. GARFIELD: And -- anyway. Now, once you put --



1 recorded or memorialized your conversation with Ms. Halley in  
2 this Google Keep app, did you change it from the time you  
3 memorialized it?

4 A No.

5 Q Okay. I'm showing you what has been marked as GC-5. Can  
6 you identify that document for me, Ms. Ybarra -- for us?

7 A This is the note I took immediately following the  
8 interaction with Halley.

9 Q Okay. And I believe you testified you didn't edit it  
10 after you took it; is that correct?

11 A That's correct.

12 Q Okay. And is -- is that a screenshot of the -- of the  
13 Google Keep entry you made?

14 A That's correct.

15 Q Okay. And once you took the -- with the --  
16 MS. GARFIELD: -- strike that, please.

17 Q BY MS. GARFIELD: What did you do with the screenshot  
18 that's before you?

19 A I sent it to you.

20 Q Okay. And when did you send it to me? About?

21 A Within the week.

22 Q Okay.

23 MS. GARFIELD: Move to admit GC-5 -- I think -- oh there,  
24 it is, Your Honor.

25 JUDGE GIANNOPOULOS: All right. Any objections from the

1 Union?

2 MS. MULTHAUP: No.

3 JUDGE GIANNOPOULOS: From Starbucks?

4 MS. SAADE: May I voir dire the witness?

5 JUDGE GIANNOPOULOS: Yes.

6 **VOIR DIRE EXAMINATION**

7 Q BY MS. SAADE: Ms. Ybarra, you indicated that you believed  
8 that you'd prepared within one hour of the conversation with  
9 Ms. Hager?

10 A I believe so, yes.

11 Q Yeah. So you would've created this at about 10:45 p.m. --  
12 a.m. that morning?

13 A Roughly -- early after -- early morning.

14 JUDGE GIANNOPOULOS: Do you have -- Ms. Ybarra, do you  
15 have -- do you still have this on your phone?

16 THE WITNESS: I do.

17 JUDGE GIANNOPOULOS: Does it not tell you the time? I  
18 really don't know. I don't think Notes does on Apple, but  
19 could -- could you look at it and tell me if it tells you the  
20 time?

21 THE WITNESS: I could. I don't have my phone on me, but  
22 yes.

23 JUDGE GIANNOPOULOS: All right. Is that your phone  
24 sitting right there?

25 THE WITNESS: Yes.



1 JUDGE GIANNOPOULOS: Yes. Why don't you go get it and  
2 pull this note up? Then, come and show it to me.

3 THE WITNESS: Okay.

4 JUDGE GIANNOPOULOS: Okay. And it does not look like it  
5 has the time. Could you --

6 THE WITNESS: Oh, the time is on the bottom right there.  
7 Oh no, that's --

8 JUDGE GIANNOPOULOS: -- no, it does not. It does not have  
9 the time. I'm just -- I just hit back one, but it doesn't look  
10 like it actually says the time. It's --

11 THE WITNESS: -- it does not.

12 JUDGE GIANNOPOULOS: -- okay. That's fine. I was just  
13 curious.

14 THE WITNESS: Okay.

15 JUDGE GIANNOPOULOS: You can put it back on the table.  
16 All right. So we don't have the actual time. Right? Her  
17 testimony is what it is. Go ahead, next question for -- on  
18 voir dire.

19 Q BY MS. SAADE: How do you -- why do you -- how do you  
20 recall that it was only an hour later?

21 A I had been told to take notes about interactions with  
22 managers while the campaign was going on to make sure that I  
23 knew and remembered what occurred in the store, especially with  
24 regards to whether or not, I would be -- the absence would be  
25 excused were -- were I to attend the hearing that I was



1 subpoenaed for. And so I wrote it down.

2 Q But how do you remember it was an hour later and not  
3 later --

4 A I wrote it down the soonest that I could.

5 Q -- and so where were you when you wrote it down?

6 A I was in my store.

7 Q On -- on shift?

8 A Yes.

9 Q So while you were working, clocked in?

10 A I would have either been on my ten or immediately coming  
11 off of work.

12 Q So if we look at your schedule for that day, we'll be able  
13 to know when approximately you may have created this note?

14 A Approximately.

15 MS. GARFIELD: Objection.

16 JUDGE GIANNOPOULOS: On what basis?

17 MS. GARFIELD: It's not -- it's improper voir dire.

18 JUDGE GIANNOPOULOS: Well -- well, I'll allow it because I  
19 think it's relevant.

20 Go ahead, next question.

21 MS. SAADE: No more, Your Honor.

22 JUDGE GIANNOPOULOS: All right. Do you have any  
23 objections to this document?

24 MS. SAADE: No.

25 JUDGE GIANNOPOULOS: All right. General Counsel's 5 is

1 admitted. Next question.

2 **(General Counsel Exhibit Number 5 Received into Evidence)**

3 MS. GARFIELD: Okay. Thank you, Your Honor.

4 **RESUMED DIRECT EXAMINATION**

5 Q BY MS. GARFIELD: Ms. Ybarra, just to clarify a question  
6 that opposing counsel asked you. You said -- you responded  
7 that it was on my ten.

8 A Oh, ten-minute break.

9 Q Oh, ten-minute break. Thank you very much. Okay, moving  
10 along. Did you end up testifying at the representation  
11 hearing?

12 A I did.

13 Q Yes, you did. Did you testify -- do you recall what day  
14 you testified?

15 A It was the day after MLK Day.

16 Q Okay. It was the day after Martin Luther King Day is --

17 A Yes.

18 Q -- is observed?

19 A Yes.

20 Q Okay.

21 MS. GARFIELD: I don't have a calendar here, Your Honor,  
22 but --

23 JUDGE GIANNOPOULOS: I -- I can take judicial notice on  
24 the day.

25 MS. GARFIELD: -- judicial notice that if it was the day



1 after, that would be a Tuesday --

2 THE WITNESS: Yeah.

3 MS. GARFIELD: -- January 18th.

4 Q BY MS. GARFIELD: Does that sound about right?

5 A That sounds about right.

6 Q Okay. Thank you very much. Now, here's my question to  
7 you. Were you scheduled -- to the best of your recollection,  
8 Ms. Ybarra, on the date that you testified before the NLRB in  
9 the representation hearing, were you scheduled off that day?

10 A I was.

11 Q Okay. Okay. So because you were scheduled off, there was  
12 no need for you to be excused, ultimately; is that correct?

13 A Correct.

14 Q Okay.

15 JUDGE GIANNOPOULOS: Do you know when your schedule had  
16 come out that had you being -- that -- that showed that you  
17 were scheduled off that day?

18 THE WITNESS: It would have been three weeks prior.

19 JUDGE GIANNOPOULOS: Three weeks prior?

20 THE WITNESS: Correct.

21 JUDGE GIANNOPOULOS: Okay. Next question.

22 Q BY MS. GARFIELD: Okay. Just to clarify the -- the  
23 judge's question, when you got the subpoena, did you know what  
24 day you were going to be called to testify?

25 A Not for sure.

1 Q Okay. Okay. To the best of your recollection, if you  
2 know -- if you know, did you testify on the first day of the  
3 representation hearing?

4 A I did not.

5 Q Okay. Now -- you -- you've seen GC-3; is that correct?

6 A Correct.

7 Q And what is it?

8 A It is a union pin. Worker's United pin.

9 Q Okay. Can you let us know -- is this the pin that you  
10 gave to a customer?

11 A It would have looked roughly like that, yes.

12 Q Okay. And during the union's campaign at your store, did  
13 you ever wear union buttons while you were working?

14 A Yes.

15 Q Okay. And where would you wear them?

16 A On the apron.

17 Q Is that the green Starbucks apron?

18 A That's correct.

19 Q Fair enough. Now directing your attention to about  
20 January 26th, do you recall having a conversation with a  
21 customer about union buttons?

22 A Yes.

23 Q Okay. And do you have a recollection, Ms. Ybarra, of that  
24 specific customer?

25 A Yes.

1 Q Is that customer that you're recalling specifically, is --  
2 was she a coworker of yours at the store?

3 A No.

4 Q Okay. Where did the conversation that you had with this  
5 customer take place?

6 A At the register while her order was being taken.

7 Q Okay. And was anyone who works for Starbucks in the  
8 immediate vicinity?

9 A Yes, my manager, Pam.

10 Q Pam?

11 A Correct.

12 Q So Pam, just to clarify, Pam Mariscal was back on the day  
13 of the button incident; is that correct?

14 A That's correct.

15 Q So Halley Hager, I assume, was not in the store?

16 A Not as far as I know.

17 Q Okay. And did you have a conversation with this --  
18 this -- this customer about buttons?

19 A Yes. She said that she liked my pins, and I mentioned  
20 that I had some in my locker in the back -- my friend had just  
21 made some and offered to get her some. She said yes. I went  
22 to my locker, grabbed a couple, and gave them to her. And she  
23 said thank you.

24 Q Okay, and how --

25 JUDGE GIANNOPOULOS: And that was Ms. Popkin -- you were

1 here when Ms. Popkin took the witness stand, right?

2 THE WITNESS: Correct.

3 JUDGE GIANNOPOULOS: And -- and do you recall that being  
4 Ms. Popkin?

5 THE WITNESS: Yes.

6 JUDGE GIANNOPOULOS: Okay.

7 Q BY MS. GARFIELD: Fair enough. Thank you. So you went --  
8 you -- you -- you left the register to get the buttons; is that  
9 correct?

10 A Correct.

11 Q Okay. Did you leave the register without anybody to  
12 attend to it?

13 A My manager was on the floor.

14 Q Okay. And -- and how long where you gone from the  
15 register to get Ms. Popkin the buttons?

16 A To get to my locker and back, it could not have taken more  
17 than 30 to 45 seconds.

18 Q Okay. And when you -- so when you gave the buttons to Ms.  
19 Popkin to the -- to the customer, did Pam see you do that?

20 A She did.

21 Q Okay. Pam Mariscal?

22 A Correct.

23 Q And at the time you gave the buttons to the customer, did  
24 Pam Mariscal say anything to you about giving the buttons?

25 A She did not.

1 Q Okay. Did she say anything to you -- did Pam Mariscal say  
2 anything to you about giving the customer the buttons on -- on  
3 that day -- on the day of --

4 Q 26?

5 A She did not.

6 Q Okay. How about the next day? Did she say anything to  
7 you the next day?

8 A She did.

9 Q Okay. Can you tell us what -- what Pam said to you?

10 A Um --

11 Q Pam Mariscal?

12 A Yeah. She called me to the back when she came in for --  
13 at 8 a.m. and had a conversation with me telling me that I was  
14 not allowed to give out union pins -- I was not allowed to give  
15 out pins. She did not specifically say union. And said that I  
16 could not be doing that while I was at work and on company  
17 time.

18 Q Okay. Did -- do -- can you describe to us what was her  
19 tone?

20 A I perceived her tone to be very harsh.

21 Q And when you had this conversation with Pam Mariscal, was  
22 anyone else present?

23 A Not as far as I recall.

24 Q All right. Ms. -- Ms. Ybarra, obviously -- obviously,  
25 these pins that you gave to the customer, they're not sold by

1 the Starbucks Corporation; is that correct?

2 A No, they are not.

3 Q Okay. Do you recall ever giving another customer an item  
4 that was not sold by the Starbucks Corporation?

5 A Yes.

6 Q Okay. Can you -- what -- for example, what item do you  
7 recall giving a customer that was not sold by the Starbucks  
8 Corporation?

9 A There was a customer who came in with her young daughter.  
10 We had some stickers left over from Valentine's Day, I believe,  
11 and we would sometimes give her daughter the stickers.

12 JUDGE GIANNOPOULOS: So why don't you tell me about that  
13 incident? Like, for example, when did that happen?

14 THE WITNESS: It would have been shortly after February,  
15 probably around March of 2021. Yeah.

16 JUDGE GIANNOPOULOS: So we're in 2022, this year.

17 THE WITNESS: Yes.

18 JUDGE GIANNOPOULOS: So it was March of last year?

19 THE WITNESS: I believe so.

20 JUDGE GIANNOPOULOS: Okay. And why don't you tell me  
21 about the incident: who was present, what happened? Like, for  
22 example, was Ms. Mariscal present? Was another manager  
23 present? Were they in -- in the vicinity when that happened?  
24 Why don't you tell me what occurred and who was present?

25 THE WITNESS: This happened a few times over that period



1 of time so I can't remember for sure who was there entirely,  
2 but I know that -- I know that we gave these stickers to  
3 this -- this kid a few times over the course of at least a  
4 couple weeks, maybe a little bit longer.

5 JUDGE GIANNOPOULOS: Okay. All right. Go ahead, Ms.  
6 Garfield.

7 MS. GARFIELD: Thank you.

8 Q BY MS. GARFIELD: And -- and when you gave these  
9 Valentine's stickers to a customer -- I mean, do you recall any  
10 instance where a manager was present while you did this?

11 A I don't recall specifically.

12 Q Okay. Fair enough. Do you have other instances that you  
13 gave items to customers that are not sold by the Starbucks  
14 Corporation?

15 A Yes.

16 Q Okay. Can you tell us about that, please? Let's take one  
17 at a time. We've got the Valentine's stickers.

18 A Perfect.

19 Q Okay.

20 A There are resource booklets that, I believe, were given to  
21 us the social worker associated with our store and a few  
22 others.

23 JUDGE GIANNOPOULOS: Is this a Starbucks social worker? A  
24 city social worker? What --

25 THE WITNESS: I have no idea.

1 JUDGE GIANNOPOULOS: Okay.

2 THE WITNESS: He gave us these resource booklets, and we  
3 are encouraged to give them to folks if they seem like they  
4 need it.

5 Q BY MS. GARFIELD: Okay. Did any manager -- to the best of  
6 your recollection, did any manager see you give out these  
7 resource booklets?

8 A They encouraged us to give them out.

9 Q Okay. Fair enough. Any other instances?

10 A There was a customer who, like, collected \$2 bills. We  
11 would occasionally receive \$2 bills as tips and none of us felt  
12 comfortable using them so we would just have, like, a small  
13 stack of \$2 bills that we didn't use --

14 JUDGE GIANNOPOULOS: I love \$2 bills.

15 THE WITNESS: It's weird to spend them.

16 JUDGE GIANNOPOULOS: Go ahead. It is weird to spend them.  
17 Go ahead. Keep -- keep going.

18 A So he -- when we found out that he collected them, we gave  
19 him our \$2 bills that we received from another customer who had  
20 them.

21 Q BY MS. GARFIELD: Okay. Do you remember the name of the  
22 customer who liked the \$2 bills?

23 A Gil (phonetic throughout).

24 Q Okay. Let me ask you again, realizing you may not  
25 remember the exact occasions or dates that you gave Gil these

1     \$2 bills, did -- did Pam Mariscal observe you giving him the \$2  
2     bills, to the best of your recollection?

3     A     I don't remember for certain. It would surprise me if she  
4     had never been present.

5     Q     What makes you say that?

6     A     Pam is frequently on the floor in the morning, which is  
7     when Gil would come in.

8     Q     Okay. And were you ever told not to give the \$2 bills to  
9     the customer?

10    A     No.

11    Q     Were you ever told by Starbucks Corporation not to give  
12    the Valentine's stickers to -- to kids?

13    A     No.

14    Q     Okay.

15           JUDGE GIANNOPOULOS: Ms. Garfield, do you have a copy of  
16    these Valentine stickers or this resource booklet?

17           MS. GARFIELD: I wish I did. I do not, Your Honor.

18           JUDGE GIANNOPOULOS: Okay. The answer's no. All right.  
19    Next question.

20           MS. GARFIELD: I have nothing further, Your Honor.

21           JUDGE GIANNOPOULOS: All right. From the Union? Any  
22    questions for this witness?

23           MS. MULTHAUP: No, thank you.

24           JUDGE GIANNOPOULOS: All right. Ms. Saade?

25           MS. SAADE: I would like to take a break and ask counsel

1 for the General Counsel for any Jencks statements for this  
2 witness.

3 JUDGE GIANNOPOULOS: All right. So Ms. Garfield, do you  
4 have Jencks material for this witness?

5 MS. GARFIELD: I do.

6 JUDGE GIANNOPOULOS: All right. What do you have?

7 MS. GARFIELD: I have an affidavit from this witness, Your  
8 Honor.

9 JUDGE GIANNOPOULOS: Okay. Anything else?

10 MS. GARFIELD: No, I do not.

11 JUDGE GIANNOPOULOS: Why don't you tell me how long this  
12 affidavit is?

13 MS. GARFIELD: Okay. Your Honor, this affidavit is  
14 double -- double spaced and it's about three-and-a-half pages  
15 long.

16 JUDGE GIANNOPOULOS: Okay. So what we'll do is, we'll  
17 take a break. There were some other issues that we need to  
18 take care of over the break.

19 I think, Ms. Garfield, you were going to get copies of the  
20 petition, other matter -- other notices of hearing, other  
21 things related to that R case hearing. And so we're going to  
22 take an hour and a half. We'll be back at 1:15. Will that  
23 give you enough time?

24 MS. GARFIELD: Yes, Your Honor.

25 MS. SAADE: Yes, Your Honor.

1 JUDGE GIANNOPOULOS: And for the Respondent to look at  
2 that and get your questions ready? It should. And also, I  
3 want to make sure that everybody gets to eat lunch. So --  
4 because I know what happens in these hearings. You know,  
5 lawyers are getting ready for their witnesses so I want to make  
6 sure everybody gets -- also has a chance to eat lunch. So  
7 we'll be back at 1:15.

8 And I just want to remind the witness, there's a  
9 sequestration order in place so don't discuss your testimony in  
10 this case with anyone.

11 And we'll be off the record. All right.

12 MS. GARFIELD: Thank you, Your Honor.

13 (Off the record at 11:43 a.m.)

14 JUDGE GIANNOPOULOS: All right. So we're back on the  
15 record. During lunch, the General Counsel has made copies of  
16 the various subpoenas that we discussed earlier today so what  
17 was marked as ALJ Exhibit 1 is a copy of the counsel for the  
18 General Counsel's petition to revoke subpoena B11GS8WID. And  
19 attached to that is the subpoena in question, along with the  
20 Respondent's petition to revoke.

21 JUDGE GIANNOPOULOS: So I'm not sure if I said that  
22 correctly, but ALJ 1, the lead document, is the GC's opposition  
23 to petition to revoke, but the subpoena and the petition to  
24 revoke are attached. And without objection, that's admitted.

25 **(ALJ Exhibit Number 1 Received into Evidence)**

1 JUDGE GIANNOPOULOS: ALJ Exhibit 2 is my order on the  
2 subpoena. That order is dated September 12th, 2022.

3 JUDGE GIANNOPOULOS: Without objection, that is admitted.

4 **(ALJ Exhibit Number 2 Received into Evidence)**

5 JUDGE GIANNOPOULOS: ALJ 3 is the General Counsel's  
6 petition to revoke Starbucks' subpoena B11GWSDE7. Attached to

7 JUDGE GIANNOPOULOS: And without objection, that is  
8 admitted, ALJ 3.

9 **(ALJ Exhibit Number 3 Received into Evidence)**

10 JUDGE GIANNOPOULOS: And then I ruled on that orally at  
11 the start of the hearing. Okay.

12 And then General Counsel, you have -- you have made copies  
13 as I asked on some of the R case stuff. We'll start with the  
14 petition and we'll mark that as ALJ Exhibit 4. That's the  
15 petition itself.

16 **(ALJ Exhibit Number 4 Marked for Identification)**

17 JUDGE GIANNOPOULOS: Without objection, ALJ 4 is admitted.

18 **(ALJ Exhibit Number 4 Received into Evidence)**

19 JUDGE GIANNOPOULOS: And we'll mark ALJ 5 as the letter.

20 **(ALJ Exhibit Number 5 Marked for Identification)**

21 General Counsel, what is this letter?

22 MS. GARFIELD: It is the notice of hearing. I think on  
23 the second page of that letter -- second or third page, it has  
24 the -- the notice of hearing.

25 JUDGE GIANNOPOULOS: Okay. Very good. That would have

1 the hearing date? Yes, it does.

2 MS. GARFIELD: Yes.

3 JUDGE GIANNOPOULOS: Without objection, ALJ 5 is admitted.

4 **(ALJ Exhibit Number 5 Received into Evidence)**

5 JUDGE GIANNOPOULOS: And then ALJ 6 is the certificate of  
6 representative in case 19-RC-287954.

7 **(ALJ Exhibit Number 6 Marked for Identification)**

8 JUDGE GIANNOPOULOS: And without objection, that is  
9 admitted.

10 **(ALJ Exhibit Number 6 Received into Evidence)**

11 MS. GARFIELD: Okay.

12 JUDGE GIANNOPOULOS: Okay. And then, General Counsel,  
13 you had another exhibit?

14 MS. GARFIELD: Yes, Your Honor. We -- at your request, we  
15 made copies of -- we took a photograph of GC 2, which was the  
16 button itself and we'd like to offer that. GC 3 which is a  
17 photograph of the button.

18 **(General Counsel Exhibit Number 3 Marked for Identification)**

19 JUDGE GIANNOPOULOS: Okay. Any objections from  
20 Respondent?

21 MS. SAADE: No.

22 JUDGE GIANNOPOULOS: From the Union?

23 MS. MULTHAUP: No.

24 JUDGE GIANNOPOULOS: All right. So GC 3 is admitted.

25 **(General Counsel Exhibit Number 3 Received into Evidence)**



1 JUDGE GIANNOPOULOS: Okay. Any other preliminary matters  
2 that we need to talk about before we go back on with witness  
3 testimony?

4 General Counsel?

5 MS. GARFIELD: I don't have anything, Your Honor. Thank  
6 you.

7 JUDGE GIANNOPOULOS: From the Union?

8 MS. MULTHAUP: No.

9 JUDGE GIANNOPOULOS: All right. Respondent, are you  
10 ready?

11 MS. SAADE: Yes. I just have one question for Your Honor.

12 JUDGE GIANNOPOULOS: Sure.

13 MS. SAADE: The notice of hearing was silent as to whether  
14 or not you'd like the Respondent to mark the exhibits "R" or  
15 "RE". Do you have a preference?

16 JUDGE GIANNOPOULOS: My preference is "R", but I don't  
17 care. However you'd mark them, I'll call them whatever I want  
18 in my decision -- even if you mark them something else.

19 MS. SAADE: Okay. Thank you.

20 JUDGE GIANNOPOULOS: So my -- my preference is also not to  
21 have them pre-marked, just because things never go according to  
22 play, but if you've pre-marked them, that's fine, too.

23 MS. SAADE: Just put the case number and R, blank, so  
24 we're in good shape.

25 JUDGE GIANNOPOULOS: Okay.



1 MS. SAADE: Thank you.

2 JUDGE GIANNOPOULOS: All right. So Ms. Ybarra, come back  
3 up to the witness stand.

4 And let's make sure you have some -- here's some water.

5 THE WITNESS: Do I have to still have to do the hand  
6 thing?

7 JUDGE GIANNOPOULOS: No, no, you're still under -- I want  
8 to remind you that you're still under oath.

9 MS. SAADE: I just wanted to ask if there are other people  
10 you anticipate calling? Because there are some new people.

11 MS. GARFIELD: No.

12 MS. SAADE: Okay.

13 (Counsel confer)

14 JUDGE GIANNOPOULOS: All right. So let's go off the  
15 record for a second.

16 MS. SAADE: Sorry, Your Honor.

17 (Off the record at 1:26 p.m.)

18 JUDGE GIANNOPOULOS: All right. We're back on the record.  
19 General Counsel?

20 MS. GARFIELD: Yes. Your Honor, in response to Ms.  
21 Saade's question, which I think went along with the  
22 sequestration order, because some new people showed up after  
23 lunch in the hearing room. I'd like the record to reflect that  
24 the new people who showed up are employee or former employees  
25 of Starbucks, but they are not under subpoena by the General

1 Counsel. My understanding is that they are not under subpoena  
2 of the Union and they informed me that they hadn't been  
3 subpoenaed by Respondent. So they -- they -- there's no  
4 indication that they would be witnesses in --

5 JUDGE GIANNOPOULOS: Okay.

6 MS. GARFIELD: -- in this matter.

7 JUDGE GIANNOPOULOS: Okay. Very good.

8 Ms. Ybarra, let me ask you: Do you recognize any of the  
9 people in the gallery as being present during any of the two  
10 incidents for which you testified?

11 THE WITNESS: No.

12 JUDGE GIANNOPOULOS: All right. So very good. I do note  
13 that one of the people in the gallery has some musical  
14 instruments. It would be great to be entertained by them, but  
15 unfortunately, we can't have you playing anything during the  
16 trial. Okay. Thumbs up.

17 All right. Go ahead, Ms. Saade. Go ahead.

18 MS. SAADE: Thank you. Actually, Your Honor. Also, too,  
19 just because we do have some new people in the -- in the  
20 courtroom and they may not have heard your earlier comments  
21 about not opening our phones and allowing the proceedings to be  
22 streamed. Would you --

23 JUDGE GIANNOPOULOS: Yeah. You can't be recording this  
24 proceeding so make sure that your phones are on silent or  
25 vibrate and that they're not recording. There's only one --

1 one recording going on and that's by the court reporter.

2 MS. SAADE: Thank you.

3 JUDGE GIANNOPOULOS: Yes.

4 **CROSS-EXAMINATION**

5 Q BY MS. SAADE: In advance of today, did you meet with any  
6 person to prepare for your testimony?

7 A Yes.

8 Q Who was that person?

9 A I spoke with Alice Garfield.

10 Q And --

11 JUDGE GIANNOPOULOS: You'll have to keep -- keep your  
12 voice up.

13 THE WITNESS: Sorry. Alice Garfield.

14 JUDGE GIANNOPOULOS: And not trail off.

15 THE WITNESS: Yes.

16 JUDGE GIANNOPOULOS: Okay.

17 Q BY MS. SAADE: And did -- was anyone else present for the  
18 conversation with Ms. Garfield?

19 A No.

20 Q And what -- when did you meet with Ms. Garfield or speak  
21 with her?

22 A I believe -- or our first meeting would have been within  
23 the month of September, I believe, or late August.

24 Q Did you meet or speak with her more than once about this  
25 case?

1 A Yeah.

2 Q How many times?

3 A I believe three or four.

4 Q And when was the first meeting?

5 A I don't remember the date.

6 Q Did all of the meetings take place in a given week or can  
7 you be more specific?

8 A I believe we had the first meeting -- I think they were  
9 spread out over a few weeks.

10 Q And what was the length of each meeting?

11 A They varied --

12 MS. GARFIELD: You know, I'm going to object. I'm going  
13 to object, Your Honor.

14 JUDGE GIANNOPOULOS: On what basis?

15 MS. GARFIELD: Because I -- I really -- I don't think it's  
16 relevant at all unless there's some allegation that impugns me.  
17 I really don't -- I think trial prep among lawyers and witness  
18 and I have some issues with getting down and drilling down into  
19 how long the meetings last and all that kind of stuff. I did  
20 meet with the witness -- I'm sorry. I did speak to the witness  
21 and I think that's -- that's -- there's nothing wrong with it.  
22 So that's my objection.

23 JUDGE GIANNOPOULOS: All right. The questions are proper.  
24 She hasn't asked -- she hasn't asked anything that would be  
25 covered by any kind of privilege. She hasn't asked, in

1 essence, you know, like, what the actual statements that were  
2 made. These are all proper questions. Next -- overruled.

3 Q BY MS. SAADE: You had mentioned -- do you have exhibits  
4 in front of you? Do you have --

5 JUDGE GIANNOPOULOS: She only has one. The only exhibit  
6 is this.

7 THE WITNESS: I have two.

8 JUDGE GIANNOPOULOS: Oh, I'm sorry.

9 THE WITNESS: I have the subpoena from the R hearing and  
10 then I have the note.

11 Q BY MS. SAADE: Can you please look at the -- the copy of  
12 your note. It's marked GC-5. And if I understood your  
13 testimony earlier, you indicated that you took this screenshot  
14 and sent it to Ms. Garfield?

15 A That's correct.

16 Q And when did you send it to her?

17 A It would have been within -- I believe it was our second  
18 to last meeting. So within the last couple of weeks.

19 Q Okay. So it was after this hearing had been set?

20 A Yes.

21 Q Other than Ms. Garfield, have you shared this note with  
22 anyone else?

23 A This note on my phone?

24 Q Yes.

25 A I don't believe so.

1 Q So at your earlier testimony, you had indicated that  
2 someone had encouraged you to take notes of all the  
3 conversations with your managers. Who gave you that  
4 recommendation?

5 A It was a recommendation from various people, mostly from  
6 coworkers and other Starbucks workers who had been organizing.

7 Q Can you be more specific? Who's given you that kind of  
8 guidance?

9 MS. MULTHAUP: Objection.

10 JUDGE GIANNOPOULOS: On what basis?

11 MS. MULTHAUP: Because these employees -- she just  
12 testified it's coworkers who gave her who -- who she spoke to  
13 and gave her this suggestion, advice. And if she testifies who  
14 then that's exposing people's Section 7 rights to --

15 JUDGE GIANNOPOULOS: Agreed.

16 MS. SAADE: I -- I don't believe I need the actual names.

17 JUDGE GIANNOPOULOS: You don't need the names. You're  
18 right.

19 Don't give any names.

20 She said coworkers. I'm not sure how you're going to get  
21 any more specific. The Union's objection is on the basis of?

22 MS. MULTHAUP: It infringes on Section 7 rights for  
23 coworkers to talk to each other about the organizing campaign.

24 JUDGE GIANNOPOULOS: I agree. So her coworkers and others  
25 gave her this advice. Next question.

1 MS. SAADE: May I -- may I ask her for clarity on who  
2 these others were, Your Honor?

3 JUDGE GIANNOPOULOS: You can certainly ask if they were  
4 other Starbucks employees, if they were employees of other  
5 employers, but let's not get into specific names, okay?

6 MS. SAADE: Understood.

7 Q BY MS. SAADE: For any of the individuals that gave you  
8 this advice, were they not -- not currently employed by  
9 Starbucks?

10 A Um --

11 JUDGE GIANNOPOULOS: If you recall.

12 A I believe -- I believe that all of them were employed by  
13 Starbucks. Some of them may not have been at the time.

14 Q BY MS. SAADE: For the individuals who may not have been  
15 employees at the time, how long ago had they been employed by  
16 the company?

17 A Recently. Within a few months.

18 Q And were these one-on-one conversations?

19 A No.

20 JUDGE GIANNOPOULOS: And we're getting a bit tangential on  
21 relevance.

22 Q BY MS. SAADE: Did -- did anyone encourage you to  
23 specifically have a conversation with Hall -- Halley Hager on  
24 January 14th?

25 A No. I believe -- I believe a coworker and I who had both

1     been subpoenaed agreed it would be best to talk to her  
2     before -- beforehand for clarification.

3     Q     And was that coworker present when you spoke to Halley?

4     A     Yes.

5     Q     And who was that person?

6     A     Justin.

7     Q     And what's Justin's last name?

8     A     Ferguson.

9     Q     Is Justin here in the courtroom?

10    A     No.

11    Q     Do you have -- have you seen any notes taken by Justin  
12    related to this conversation?

13    A     No.

14    Q     Did you show Justin your notes before you sent them to Ms.  
15    Garfield?

16    A     No.

17    Q     Did you read the notes to Justin to get his verification  
18    on -- on the accuracy of your notes?

19    A     No.

20    Q     And was -- did -- did Justin have his own separate  
21    conversation with Halley?

22           MS. MULTHAUP:  Objection.

23           JUDGE GIANNOPOULOS:  Sustained.  Assumes facts not in  
24    evidence.

25    Q     BY MS. SAADE:  When Justin was present with you and Halley



1 and you were having the conversation with Halley about the  
2 questions you had related to your subpoena, did Justin speak at  
3 all in that conversation?

4 A I don't remember exactly what he said. I know he wasn't  
5 silent.

6 (Counsel confer)

7 Q So you don't know if he asked any questions or if Halley  
8 spoke to him directly?

9 A Not specifically. I do not specifically remember.

10 Q Other than Ms. Garfield, have you spoken to anyone else  
11 about your intended testimony today?

12 MS. MULTHAUP: Objection.

13 JUDGE GIANNOPOULOS: On the basis of?

14 MS. MULTHAUP: It infringes on Section 7 activity.

15 JUDGE GIANNOPOULOS: Well, she's -- she's allowed to  
16 ask --

17 I thought you already asked that, quite honestly.  
18 Didn't -- didn't you already ask her who she talked to when you  
19 said Ms. Garfield --

20 Did you talk to anyone else about your testimony today?

21 MS. SAADE: I asked if anyone else was present. I don't  
22 recall --

23 JUDGE GIANNOPOULOS: If anyone else was present. Okay,  
24 fine. Was anyone else present with Ms. Garfield? I thought  
25 you asked that already.

1 MS. SAADE: Oh, I'm --

2 JUDGE GIANNOPOULOS: All right.

3 THE WITNESS: No. No one else was present.

4 MS. SAADE: And just for clarity, Your Honor, I think my  
5 previous question was to ask if anyone else was present when  
6 she spoke to Ms. Garfield. I didn't make note that I had  
7 already asked the question, did you speak to anyone else?

8 JUDGE GIANNOPOULOS: That's fine.

9 MS. SAADE: Thank you. So can I have an answer to that  
10 question?

11 JUDGE GIANNOPOULOS: Did you talk to anyone else other  
12 than Ms. Garfield about your testimony today?

13 THE WITNESS: Can you clarify the question?

14 JUDGE GIANNOPOULOS: About your upcoming testimony, did  
15 you talk to anyone else either about -- before your testimony  
16 today, between the time of the incident and today? And then  
17 we'll narrow it down from there.

18 THE WITNESS: I mentioned that I had a hearing today.

19 JUDGE GIANNOPOULOS: Okay. And who did you say -- tell  
20 that to?

21 THE WITNESS: Some coworkers.

22 JUDGE GIANNOPOULOS: All right. Go ahead.

23 Q BY MS. SAADE: Did you advise any of your coworkers what  
24 you planned to testify about?

25 MS. MULTHAUP: Objection. I think -- I think Rachel

1 talking to her coworkers about, you know, the -- her  
2 involvement in NLRB proceedings is clearly protected activity  
3 and not relevant to her testimony today.

4 JUDGE GIANNOPOULOS: It is --

5 MS. SAADE: But --

6 JUDGE GIANNOPOULOS: -- it could be -- it could be  
7 relevant.

8 MS. SAADE: Yeah, and I'm not asking her --

9 JUDGE GIANNOPOULOS: It could be relevant.

10 So did you tell them about what the case was about? Did  
11 you tell them about the incident in question? About what  
12 happened to you?

13 THE WITNESS: I referenced the incident in question  
14 because some people were there during the time that it  
15 happened, not at the event.

16 JUDGE GIANNOPOULOS: Okay.

17 Q BY MS. SAADE: And what -- how did you describe the  
18 incident to those people?

19 A I said that the hearing was about the time that I gave a  
20 customer some pins.

21 Q And is that all you said?

22 A Yes. I may have -- to my recollection. I don't remember  
23 my exact words.

24 Q Did you indicate that the hearing was about any other  
25 topic?

1 MS. MULTHAUP: Objection. Asked and answered.

2 JUDGE GIANNOPOULOS: That's -- overruled. If you recall?

3 A Can you repeat the question?

4 Q Yes.

5 JUDGE GIANNOPOULOS: Basically, she's asking you, did you  
6 also reference the subpoena, if you remember --

7 THE WITNESS: Oh --

8 JUDGE GIANNOPOULOS: -- in your conversations with your  
9 coworkers or anybody?

10 THE WITNESS: I -- in some of the conversations, I also  
11 referenced the subpoena.

12 Q BY MS. SAADE: You said some of the conversations --

13 JUDGE GIANNOPOULOS: She also referenced the subpoena.

14 Q BY MS. SAADE: All right. How many conversations have you  
15 had about your intended testimony?

16 JUDGE GIANNOPOULOS: We're getting far --

17 MS. MULTHAUP: Objection. Relevance.

18 JUDGE GIANNOPOULOS: -- afield of this. What is the  
19 relevance?

20 MS. SAADE: Because, Your Honor, she's here today. We  
21 don't have Halley Hager to testify?

22 JUDGE GIANNOPOULOS: Why?

23 MS. SAADE: I --

24 JUDGE GIANNOPOULOS: What do you mean, you don't have her?

25 MS. SAADE: She is no longer an employee.

1 JUDGE GIANNOPOULOS: You have every right to subpoena her.

2 MS. SAADE: I understand.

3 JUDGE GIANNOPOULOS: Is Ms. Hager alive as far as you  
4 know?

5 MS. SAADE: I'm sorry?

6 JUDGE GIANNOPOULOS: Do you know is she deceased?

7 MS. SAADE: I -- not that I'm aware of?

8 JUDGE GIANNOPOULOS: Sustained. Move on. You had every  
9 right to subpoena her.

10 MS. SAADE: I understand --

11 JUDGE GIANNOPOULOS: She could be here today right now.

12 MS. SAADE: But I -- but --

13 JUDGE GIANNOPOULOS: Next question. Move on.

14 MS. SAADE: I --

15 JUDGE GIANNOPOULOS: Sustained.

16 MS. SAADE: I understand, Your Honor, but for the record,  
17 I do believe --

18 JUDGE GIANNOPOULOS: Sustained.

19 Q BY MS. SAADE: Ms. Ybarra, did -- other than taking your  
20 notes and speaking with Justin immediately after you had the  
21 conversation with Halley Hager, did you speak to anyone else  
22 about the conversation with her?

23 MS. MULTHAUP: Objection.

24 JUDGE GIANNOPOULOS: This has been asked and answered, but  
25 do you recall anyone else you've spoken to?

1 THE WITNESS: At some point after the event, I spoke to an  
2 NLRB agent and I mentioned the incident to one of the Union's  
3 lawyers.

4 JUDGE GIANNOPOULOS: All right.

5 Q BY MS. SAADE: Have you posted on social media about your  
6 attendance at today's hearing?

7 A I don't believe so.

8 Q Did you post on social media about the conversation that  
9 you had with Halley Hager?

10 MS. MULTHAUP: Objection.

11 JUDGE GIANNOPOULOS: On what basis?

12 MS. MULTHAUP: The conversation she had with her manager  
13 goes to the -- the substance of the incident, not the testimony  
14 today. It's irrelevant.

15 JUDGE GIANNOPOULOS: No, no. Overruled.

16 Do you recall if you posted on social media about -- about  
17 your conversation with Ms. Hager?

18 THE WITNESS: I don't remember. I don't believe I did.

19 JUDGE GIANNOPOULOS: Okay.

20 Q BY MS. SAADE: Did you post on social media about the  
21 conversation that you had with Pam Mariscal?

22 A In reference to the pins?

23 Q Yes.

24 A I don't remember for sure. I don't think that I did.

25 Q Did you prov -- did you provide copies of any of your

1 social media posts to the counsel for the General Counsel?

2 A No.

3 Q Are you here pursuant to a subpoena today?

4 A Yes, I am.

5 Q And when did you receive the subpoena?

6 A I received it, I believe, about a month before today.

7 Q At the time that you received the subpoena, had your work  
8 schedule for this week already been issued?

9 MS. GARFIELD: Objection. Rele --

10 JUDGE GIANNOPOULOS: On what basis?

11 MS. GARFIELD: Relevance.

12 JUDGE GIANNOPOULOS: What is the relevance?

13 MS. SAADE: The relevance is, Your Honor, if I understand  
14 the allegations in this case, there's a question about  
15 Starbucks' policy related to subpoenas. And the -- the  
16 complaint is looking for, essentially, injunctive relief on  
17 that issue. I -- and -- and -- and I don't believe that --  
18 well, not 10(j) relief, Your Honor, but I mean, the -- the  
19 relief that is sought is that they -- they want changes made to  
20 the policy or announcements made about the policy. I think  
21 it's important to understand and get testimony from the  
22 individual who's com -- the charging party, essentially, as to  
23 what their understanding of the policy is and how it's been  
24 implemented --

25 MS. GARFIELD: Excuse me.

1 MS. SAADE: -- between the date of the incident and today.

2 JUDGE GIANNOPOULOS: All right. General Counsel, did you  
3 want to speak?

4 MS. GARFIELD: I just wanted to be heard a moment, Your  
5 Honor. There's nothing in this consolidated complaint  
6 attacking or alleging any illegality in Starbucks' corporate  
7 policy. These are two statements attributed to Halley Hager,  
8 who was then a supervisor, that the statements discretely --  
9 regardless of whatever the policy was, the statements are, we  
10 contend, violations of 8(a)(1).

11 JUDGE GIANNOPOULOS: Yeah, I agree. I -- I think that  
12 the -- the complaint's -- is pretty specific on what it  
13 alleges. Just alleges that the two statements made -- the two  
14 allegations regarding the one incident involving the subpoena  
15 were 8(a)(1) statements.

16 MS. SAADE: May I ask --

17 JUDGE GIANNOPOULOS: That might be part of your defense,  
18 but I don't think it's -- so I don't think that her su --  
19 getting a subpoena here is really relevant. It's -- to me,  
20 it's not. It has nothing to do with the -- the statements that  
21 were made to her back earlier in the year.

22 MS. SAADE: I do think that addit -- other conversations  
23 that she had with management and/or Halley Hager about a  
24 subpoena and hearing attendance could be relevant to the  
25 context in which any statement was made back in January.



1 JUDGE GIANNOPOULOS: All right. I'll let you explore  
2 that. Go ahead.

3 Q BY MS. SAADE: Ms. Ybarra, did you speak to anyone at  
4 Starbucks in management about your receipt of the subpoena?

5 A Today or in --

6 Q Yes, for -- for this hearing?

7 A I don't believe so, not any management.

8 Q Did you have to take any steps to ask for time off from  
9 Starbucks so that you could have the day off to attend this  
10 hearing?

11 A No, but that was due to accentuating (sic) circumstances.

12 Q Which were what?

13 A My store went on strike today.

14 Q When you received the subpoena, did you know that it was  
15 going to be on strike today?

16 MS. GARFIELD: Objection.

17 JUDGE GIANNOPOULOS: Sustained. The problem is,  
18 Respondent, in your -- in the -- in Starbucks' answer, there's  
19 no -- there's no claim that they have somehow remedied this --  
20 there's, like, some sort of Passavant remedy, that they did  
21 something after the fact to negate whatever potential  
22 violations these statements may been. So we've -- we -- we're  
23 going far afield, so move on.

24 Q BY MS. SAADE: Ms. Ybarra, back in the sum -- in -- let me  
25 ask this. When did you first learn that there was going to be

1 a hearing scheduled for January 13th?

2 A I believe that I was told that there was a high likelihood  
3 that there would be a hearing at some point when we filed.

4 Q I'm sorry?

5 A When we filed.

6 JUDGE GIANNOPOULOS: When the Union filed the petition?

7 THE WITNESS: Yes.

8 JUDGE GIANNOPOULOS: Correct?

9 THE WITNESS: Sorry.

10 JUDGE GIANNOPOULOS: Yeah. Okay.

11 Q BY MS. SAADE: And the Union filed the petition at the end  
12 of December?

13 A Yes.

14 Q Of 2021?

15 A Correct.

16 Q And at that point, did you have your schedule for the  
17 month of January?

18 A In December?

19 Q Yes.

20 A I would have had part of January.

21 Q How often are schedules published at the Broadway and  
22 Denny store?

23 A Every week. They are three weeks in advance.

24 Q So a schedule issued this week would give you the next  
25 three weeks?

1 A Correct.

2 Q And so at the end of December, you would have had your  
3 schedule for -- through -- through mid-January?

4 A I believe so, yes.

5 Q So when you learned about the petition had filed -- been  
6 filed, you would have known what your work schedule was through  
7 January 15th?

8 A I believe so.

9 Q And --

10 A In that I would have -- the information would have been  
11 available to me.

12 Q And how is that information available to you?

13 A There -- it's posted on -- in -- in December, it would  
14 have been posted on the -- the fridge in our back-of-house.

15 Q Is it available any other way?

16 A It would have been available online through a site, I  
17 believe.

18 Q Is that through the Partner Hub, or My Daily (phonetic  
19 throughout)?

20 A Partner Hub, I think.

21 JUDGE GIANNOPOULOS: So if the petition was filed on the  
22 20th, which is the date on the petition, I -- I take three  
23 weeks as being through the 10th of January.

24 MS. SAADE: Okay.

25 JUDGE GIANNOPOULOS: Because I'm looking at a calendar.

1 The 20th was a Monday, right? The next Monday's the 27th of  
2 December. That would be one week. The week -- the 27th would  
3 be two weeks, and then the -- the third week would be the week  
4 from the 3rd of January through the 7th of January. Is that  
5 how they come out?

6 THE WITNESS: Yes.

7 JUDGE GIANNOPOULOS: The 7th is a Friday, but I'm saying  
8 that then the 8th and the 9th would be Saturday, Sunday.

9 THE WITNESS: Yeah. So every Monday, a po -- a schedule  
10 is posted. If the schedule were posted on January 1st, it  
11 would not come out for -- it -- it would not be for the 8th.  
12 It would be for the 15th.

13 JUDGE GIANNOPOULOS: I see.

14 THE WITNESS: If that makes sense.

15 MS. SAADE: If I may, Your Honor --

16 JUDGE GIANNOPOULOS: Yes.

17 MS. SAADE: -- introduce Respondent's 1, it might make it  
18 easier on everyone.

19 JUDGE GIANNOPOULOS: Is this the calendar?

20 MS. SAADE: Yes.

21 THE WITNESS: Thank you.

22 JUDGE GIANNOPOULOS: Okay. It's just a calendar.

23 MS. SAADE: It's just a calendar, Your Honor. Yeah. And  
24 I like to use it in examining the witness. That's why I'm  
25 introducing it. I know you can take judicial notice of the

1 date. But I would -- bear with me. I appreciate it.

2 Q BY MS. SAADE: Ms. Ybar -- Ybarra, I've been -- I've shown  
3 you what's been marked as Respondent's 1. And does it appear  
4 to -- would you -- what was -- what does this document  
5 represent to you?

6 A This is a calendar for the month of January.

7 Q From this year, 2022?

8 A Of 2022, yes.

9 Q Thank you.

10 MS. SAADE: I'd like to move to admit Respondent's 1.

11 JUDGE GIANNOPOULOS: All right. Any objections to the  
12 calendar for January of 2022?

13 MS. GARFIELD: No objection, Your Honor.

14 JUDGE GIANNOPOULOS: From the Union?

15 MS. MULTHAUP: No.

16 JUDGE GIANNOPOULOS: All right. So Respondent's 1 is  
17 admitted.

18 **(Respondent Exhibit Number 1 Received into Evidence)**

19 MS. SAADE: Thank you.

20 THE COURT REPORTER: Can we --

21 JUDGE GIANNOPOULOS: Let's -- I'm not the monitor, Bruce.

22 THE COURT REPORTER: Oh, I'm sorry.

23 JUDGE GIANNOPOULOS: Next mo -- next question. It's a  
24 public hearing.

25 THE COURT REPORTER: Okay.



1 JUDGE GIANNOPOULOS: Public isn't -- is well-positioned.

2 Q BY MS. SAADE: Ms. Ybarra, do you have a copy of the  
3 subpoena that you received -- or the subpoena that's been  
4 introduced?

5 A Yes.

6 Q Okay. Thank you. I believe that's General Counsel's --

7 A 4.

8 Q What number do you have in front of you?

9 A 4.

10 Q 4? Okay. Thank you. What is the -- can you tell from  
11 looking at the bottom of the -- the subpoena what date it's  
12 issued?

13 A It was issued on the 22nd.

14 Q Of December?

15 A Correct.

16 Q And you believe that you received it shortly thereafter?

17 A I believe so.

18 Q Now, the subpoena indicates -- what day will the hearing  
19 start?

20 A Was that a question as to what the hearing date would be?

21 Q Yes.

22 A The 13th.

23 Q Okay. So between -- for -- at any point in time between  
24 December -- or I'm sorry, December 22nd and January 13th, did  
25 you have a conversation with Halley Hager about your inten --

1 your -- your scheduled work hours?

2 A No. My conversation with Halley Hager took place on the  
3 14th.

4 Q Did you have that -- have a conversation with Pam Mariscal  
5 at all about your scheduled --

6 A No.

7 Q -- work hours?

8 Did you have a conversation with any manager that had  
9 supervisory roles over the Broadway and Denny store regarding  
10 your need to -- to have some time off to attend the hearing?

11 A No.

12 Q You mentioned that Halley Hager was covering for Pam  
13 Mariscal on the day that you spoke to her.

14 A Correct.

15 Q Had you worked with Halley before that?

16 A Yes.

17 Q On how many occasions?

18 A I couldn't count them, but I did work briefly at Olive  
19 Way, and I had -- I had met her before. I believe she'd come  
20 into the store.

21 Q Was that the first time she had worked as a -- as the --  
22 as the covering manager for the Broadway and Denny store while  
23 you were working?

24 A I -- I don't remember.

25 Q In January of 2022, you were working approximately 30 to

1 35 hours a week?

2 A Roughly, yes.

3 Q And on most days, isn't it true that you often would see  
4 Pam Mariscal when you would work?

5 A Correct.

6 Q So it's fair to say that between December 22nd and January  
7 14th, you would have had a number of occasions to speak with  
8 Pam Mariscal.

9 A That's correct.

10 Q And so the hearing -- as far as you are aware, the hearing  
11 opened and began on January 13th, correct?

12 A I believe so.

13 Q And did you attend that hearing?

14 A No, I listened -- I listened in on the Zoom while I was  
15 not at work. But I was not there.

16 Q But you -- you were scheduled to work on the 13th,  
17 correct?

18 A Correct.

19 Q And you were able to work your hours with no problem that  
20 day?

21 A Correct.

22 Q Did you ask for any time off on the 13th?

23 A I did not.

24 Q And then -- so what prompted you to and -- and then you  
25 worked on the 14th, correct, too?



1 A Correct.

2 Q And you worked your scheduled hours?

3 A I did.

4 Q Did you ask anyone to take the 14th off so that you could  
5 attend the hearing?

6 A No.

7 Q And in your conversation with Halley Hager, you -- you  
8 weren't asking to leave work on the 14th to attend the hearing,  
9 correct?

10 A No.

11 JUDGE GIANNOPOULOS: Correct, meaning that's correct?

12 THE WITNESS: I was not asking to leave early, no.

13 Q BY MS. SAADE: And on the 14th, the next day, that was a  
14 Friday, so the next day would have been a Saturday and then  
15 Sunday. And so the next hearing date would not have been until  
16 the 18th. Correct?

17 A That's correct.

18 Q And you had the 18th already scheduled off?

19 A That's correct.

20 Q Do you know what other days you worked that week?

21 A I could not tell you for sure.

22 Q If I may --

23 JUDGE GIANNOPOULOS: Yeah.

24 Q BY MS. SAADE: Ms. Ybarra, show you what's been marked as  
25 Respondent 2. And I'd ask that you'd turn to page 4 of that

1 document, which would be last one.

2 Have you seen a printout like this, like -- or do you know  
3 what the schedule editor is?

4 A I've seen things close to this. It normally doesn't list  
5 the meals and breaks.

6 Q So is this -- do you understand this to be, though, a  
7 printout of -- of the store's schedule for that week?

8 A Yes.

9 MS. GARFIELD: Objection.

10 JUDGE GIANNOPOULOS: On what basis?

11 MS. GARFIELD: I think this is misleading because I need  
12 some clarifica -- Your Honor, the -- the one I'm looking at --  
13 the copy I'm looking at, Monday is January 10th of -- so this  
14 is the week before, is that what we're saying? This is the  
15 week --

16 MS. SAADE: Yes.

17 MS. GARFIELD: Okay.

18 MS. SAADE: So this is leading up --

19 MS. GARFIELD: I -- I withdraw my objection. I'm sorry,  
20 Your Honor.

21 JUDGE GIANNOPOULOS: So take a -- let me -- let me ask you  
22 this, Ms. Ybarra. Look at this -- look through this. Go to  
23 the last page, which is your name --

24 THE WITNESS: Um-hum.

25 JUDGE GIANNOPOULOS: -- and take a look at that. Do you

1 independently recognize this is your schedule for this week?  
2 For the week of the 10th?

3 THE WITNESS: It does not look incorrect.

4 JUDGE GIANNOPOULOS: It does not look incorrect?

5 THE WITNESS: I -- I -- I couldn't tell you exactly the  
6 schedule I worked that week.

7 JUDGE GIANNOPOULOS: Okay. Since you can't tell, do you  
8 know -- do you know the schedule your -- your coworkers worked  
9 that week?

10 THE WITNESS: No, not exactly. I could look through it  
11 and tell you if anything looked wildly off.

12 JUDGE GIANNOPOULOS: All right. I'll let you proceed with  
13 questions, but you might have some foundational issues.

14 MS. SAADE: I'm -- I'm fine to introduce it through  
15 another witness, Your Honor.

16 JUDGE GIANNOPOULOS: I mean, she can say if it looks  
17 familiar, but -- but you know -- go ahead.

18 MS. SAADE: Thank you.

19 Q BY MS. SAADE: Ms. Ybarra, back in January, do you recall  
20 if you generally worked fi -- beginning at 5 a.m.?

21 A Generally speaking, yes.

22 Q And was it your typical schedule that on some days you  
23 would work until 9:45, and other days you would work until  
24 around noon, 12:30?

25 A No, that wasn't a regular occurrence.

1 Q Was that something that you -- did -- was it -- I'll ask  
2 it a different way then. Was it a -- was it common for you to  
3 work five days a week?

4 A Yes, I believe so.

5 Q And so is it fair to say that in any gi -- in the given  
6 week in -- that started on January 10th, it's -- it's possible  
7 or probable that you worked five days that week?

8 A I would say so, yes.

9 Q That it was probable you worked five days a week?

10 A Yes.

11 Q Do you have any reason to question that the schedule here  
12 that you worked a couple of days -- well, one day until 9:45,  
13 and then a couple of other days until noon, and then another  
14 until 1 -- 1.

15 A No, this looks like it was probably accurate at the time.

16 MS. SAADE: I'd move to admit then, Your Honor, at least  
17 page 4.

18 JUDGE GIANNOPOULOS: All right. Any objections from the  
19 Union to start with, then?

20 MS. MULTHAUP: I -- so -- I'm sorry. I don't -- I  
21 haven't -- I don't have a copy of it.

22 JUDGE GIANNOPOULOS: Take a look at -- take a look at  
23 the --

24 MS. MULTHAUP: I mean, the -- to the extent that, like,  
25 the Respondent is saying this is an accurate copy of the

1 schedule and Rachel doesn't remember if it is, I would object.

2 JUDGE GIANNOPOULOS: All right. General Counsel?

3 MS. GARFIELD: Is the -- is the Respondent introducing the  
4 entire document or page 4?

5 MS. SAADE: No, I'm willing to withdraw the other three  
6 pages and just introduce the 4th page.

7 JUDGE GIANNOPOULOS: Okay. General Counsel, any  
8 objections?

9 MS. GARFIELD: No objection to the 4th page.

10 JUDGE GIANNOPOULOS: All right. I'll admit it.

11 **(Respondent Exhibit Number 2 Received into Evidence)**

12 JUDGE GIANNOPOULOS: The witness said it looks about  
13 right. I won't admit it for the fact that this was her exact  
14 schedule because I think she said she really doesn't remember,  
15 but that it looks about right.

16 That this is about the hours that you work during that  
17 time frame?

18 THE WITNESS: Correct.

19 JUDGE GIANNOPOULOS: Okay. So I'll admit it for that  
20 purpose only, page 4. Unfortunately, I just took it off --  
21 they're all -- all pages were labeled 1 of 4.

22 MS. SAADE: Yeah.

23 JUDGE GIANNOPOULOS: So -- but there is -- in the corner  
24 it says 4 of 4. So the last page will be admitted for purposes  
25 of whatever relevance it is. The witnesses' testimony is what

1 it is regarding that document.

2 (Counsel confer)

3 JUDGE GIANNOPOULOS: That's fine. It doesn't matter. And  
4 then the -- the -- if you want someone -- if you want this  
5 admitted as the actual schedule of this witness during that  
6 week, you'll have to have someone else --

7 MS. SAADE: That's fine.

8 JUDGE GIANNOPOULOS: -- testify as to that. All right.

9 MS. SAADE: Thank you.

10 JUDGE GIANNOPOULOS: So with that understanding, the  
11 Respondent's 4 is admitted. I'm sorry, Respondent's 2, what  
12 was page 4 of 4 of the document, which is now just a one-page  
13 document.

14 Q BY MS. SAADE: Ms. Ybarra, was there any -- ever a time in  
15 January -- before January 2022, where you had asked for  
16 personal time off that was due to some other reason other than  
17 illness?

18 MS. GARFIELD: Objection. Relevance.

19 JUDGE GIANNOPOULOS: I'll -- I'll allow her -- over --  
20 overruled.

21 A I believe at this time, I would have taken some PTO, I  
22 think. I'm not positive.

23 JUDGE GIANNOPOULOS: When you say PTO, like, how does it  
24 work? I don't know.

25 THE WITNESS: I submit a -- like, a thing on the --

1 JUDGE GIANNOPOULOS: Okay. But this is, like, time off  
2 that you've earned?

3 THE WITNESS: Yeah.

4 JUDGE GIANNOPOULOS: I mean, you guys earn time off?

5 THE WITNESS: Yes.

6 JUDGE GIANNOPOULOS: Okay. And so this is, like, vacation  
7 time or whatever?

8 THE WITNESS: Yes.

9 JUDGE GIANNOPOULOS: All right. Move on.

10 Q BY MS. SAADE: Prior to of January 2022 though, while  
11 you're working at the Broadway and Denny store, were there ever  
12 occasions where something came up where you hadn't -- ha -- you  
13 didn't have scheduled PTO, but you needed some time off and it  
14 was not due to illness?

15 A Not -- no. Not as far as I know.

16 Q Was there ever a time while you're working at the Broadway  
17 and Denny store prior to January 2022, where you wanted to  
18 request that you not be scheduled on a particular day?

19 A I -- maybe. I don't recall in particular.

20 Q What was your typical practice of how to ask for that time  
21 not to be scheduled?

22 JUDGE GIANNOPOULOS: If there was a practice. I mean, I  
23 don't think she's established that there was.

24 THE WITNESS: I'm sorry. I'm not understanding the  
25 question. Can you give an example or a scenario?

1 JUDGE GIANNOPOULOS: I don't know. Let me give -- let me  
2 give you a hypothetical. Say something came up. Your dog got  
3 sick, so you couldn't ask for sick leave for yourself, but you  
4 have to take your dog to the vet, assuming you have a dog.  
5 Like, all right, did something like that ever happen? When you  
6 had to ask -- tell your manager, hey, I have to take my dog to  
7 the vet. I don't know. My mom needs a ride to the podiatry --  
8 I really don't know. Anything like that, has it -- has that  
9 ever come up?

10 THE WITNESS: The only circumstances like that that I can  
11 think of is if I needed a mental health day --

12 JUDGE GIANNOPOULOS: Okay.

13 THE WITNESS: -- which is covered under protected sick  
14 time.

15 JUDGE GIANNOPOULOS: Under prote -- under PTO. Right.

16 THE WITNESS: Yeah.

17 JUDGE GIANNOPOULOS: Okay. So if you -- other -- before  
18 this hearing, had you ever been subpoenaed to testify in a  
19 federal or state proceeding before and you had to ask for that  
20 time off at work?

21 THE WITNESS: For this --

22 JUDGE GIANNOPOULOS: Any -- before you got this subpoena,  
23 General Counsel's 4.

24 THE WITNESS: I had not ever had to go to court during  
25 work, no.



1 JUDGE GIANNOPOULOS: All right. Next question.

2 Q BY MS. SAADE: Had you ever been subpoenaed to serve on a  
3 jury prior to January of 2020 (sic)?

4 A No.

5 Q Isn't it true that at the Broadway and Denny store, that  
6 you have a way in which to designate what days are available to  
7 work?

8 A Yes, I'm able to submit a availability form.

9 Q And how often do you submit your availability form?

10 MS. GARFIELD: Objection.

11 JUDGE GIANNOPOULOS: On what basis?

12 MS. GARFIELD: Relevance. Relevance.

13 JUDGE GIANNOPOULOS: I'll -- I'll give -- I'll give her  
14 some leeway -- I'll give Respondent some leeway to try to make  
15 their defense. I understand your relevance objection, but they  
16 also have a right to try to make their defense.

17 MS. GARFIELD: Understood, Your Honor.

18 THE WITNESS: Please repeat the question.

19 Q BY MS. SAADE: How often do you submit your availability  
20 to Starbucks?

21 A To date, I have only submitted it when either prompted by  
22 my manager or when it changes. Which is to say I think I may  
23 have done it six or seven times in my two-and-a-half years.

24 Q And how -- how do you physically or electronically do  
25 that?

1 A Physically, there is a piece of paper which looks roughly  
2 like the electronic one, and I fill in which days I'm available  
3 and for what length of time.

4 Q And you submit that to your store manager?

5 A Correct.

6 Q And how do you submit that to her?

7 A Electronically, you just -- there's a submit button and it  
8 goes to her. On paper, I believe we put it in a pile and then  
9 she dealt with it.

10 Q And at no point between December 22nd, 2001 -- 20 -- 2021  
11 and January 14th, 2022, you did not submit any sort of change  
12 in your availability for the month of January. Correct?

13 A No, not as far as I know.

14 JUDGE GIANNOPOULOS: You mean, correct? She's asking, in  
15 essence, a double -- I don't want a double negative. She asked  
16 you to sco -- you did not submit any availability changes,  
17 right?

18 THE WITNESS: I don't believe so.

19 JUDGE GIANNOPOULOS: Okay.

20 Q BY MS. SAADE: You mentioned -- well, isn't it true that  
21 you've worked at more than one store?

22 A Correct.

23 Q And did you follow the same process when your schedule  
24 changed or when you would want time off as what you just  
25 described?

1 A I -- I don't recall for sure. I believe that my  
2 availability only changed once I was back at my own store. I  
3 submitted it to my store manager at Broadway and Denny. And  
4 then I believe that it, like, transferred to the store I went  
5 to after that when the store closed down again, I believe.

6 Q And what's your understanding of why -- why you're asked  
7 to submit your availability for scheduling?

8 A Theoretically, to only schedule me times that I am  
9 available.

10 Q When you were hired by Starbucks, did you go through an  
11 onboarding process or an orientation?

12 A I did.

13 Q And as part of that process, did you receive a copy of the  
14 partner guide?

15 A I did.

16 Q And did you sign a form confirming that you received a  
17 copy?

18 A I believe so. There were a lot of papers.

19 Q Were you given an opportunity to read the partner guide?

20 A I believe so.

21 Q And were you given a -- since you've been working at  
22 Starbucks, have you had an opportunity to access the guide?

23 A I -- I don't understand exactly what you're asking.

24 Q Sure. Since -- since you began working for Starbucks, are  
25 you -- have you -- do you have access to the guide? Like, can

1     you access a hard copy or an electronic copy in some way?

2     A     I believe there's one in the store, yes.

3     Q     Is it also available to partners online?

4     A     Yes.

5     Q     So I've shown what's been marked as -- to you what's been  
6     marked as Respondent 3. And I would just ask if you recognize  
7     that document or the signature on the page?

8     A     Yes, that is my signature on, I believe, an acknowledgment  
9     that I did something -- hang on -- received the partner guide.

10    Q     And is that your partner number there under your  
11    signature?

12    A     Yes.

13    Q     And is that the store number for Broadway and Denny?

14    A     It is.

15    Q     And is the April 20th, '20 date approximately when you  
16    began working at that store?

17    A     It is.

18    Q     Thank you.

19           MS. SAADE: I move to admit Respondent's 3, please.

20           JUDGE GIANNOPOULOS: Are there any objections from the  
21    Union?

22           MS. MULTHAUP: No.

23           JUDGE GIANNOPOULOS: From the General Counsel?

24           MS. GARFIELD: I -- I -- I have a voir dire for the  
25    witness.

1 JUDGE GIANNOPOULOS: Sure.

2 **VOIR DIRE EXAMINATION**

3 Q BY MS. GARFIELD: You -- you have Respondent's 3 in front  
4 of you, correct?

5 A I do.

6 Q Could -- when you signed for a partner guide, do you --  
7 was this confirmation to the company -- your receipt of the  
8 partner guide or the partner instructions -- Partner -- do  
9 you -- partner guide, I guess it's called -- Starbucks Coffee  
10 Company Partner Guide, U.S. Store Edition?

11 A I believe so. It --

12 Q Okay.

13 A It was probably in the folder of paperwork I was supposed  
14 to sign.

15 Q And do you know which edition that you acknowledged --  
16 which partner guide edition?

17 A I have no idea.

18 Q So let me say this -- than -- thank you, Ms. Ybarra.

19 MS. GARFIELD: I don't have a -- have a -- have a -- have  
20 a problem with the acknowledgment. But I think it's -- it's --  
21 it's -- it's kind of ambiguous in that we don't know what she  
22 was acknowledging. We don't have the partner guide in evidence  
23 that she signed for, so I --

24 JUDGE GIANNOPOULOS: I think -- I think Ms. Saade is  
25 probably planning to get there. But for purposes of the

1 acknowledgment that at this date, April 20th, 2020, Ms.

2 Ybarra -- I'm sorry -- yes -- acknowledged receipt of a partner  
3 guide, correct?

4 MS. SAADE: Correct.

5 MS. GARFIELD: A partner guide, correct.

6 JUDGE GIANNOPOULOS: Correct. All right.

7 MS. GARFIELD: All right. Well, if that's --

8 JUDGE GIANNOPOULOS: That's admitted for that purpose.

9 **(Respondent Exhibit Number 3 Received into Evidence)**

10 MS. GARFIELD: Fine. Thank you, Your Honor.

11 JUDGE GIANNOPOULOS: Go ahead, Ms. Saade.

12 MS. SAADE: Right.

13 **RESUMED DIRECT EXAMINATION**

14 Q BY MS. SAADE: And Ms. Ybarra, I'm going to show you  
15 in just a moment something as soon as I mark it. I believe  
16 it's Respondent's 4.

17 **(Respondent Exhibit Number 4 Marked for Identification)**

18 MS. MULTHAUP: Would it be possible to get a copy of the  
19 exhibits for everybody?

20 JUDGE GIANNOPOULOS: Yes. Yes.

21 MS. SAADE: Yes.

22 JUDGE GIANNOPOULOS: We need to have -- we need to have  
23 all -- everyone needs to get a copy of an exhibit --

24 MS. MULTHAUP: Thank you.

25 JUDGE GIANNOPOULOS: -- of the exhibits.

1 Q BY MS. SAADE: So Ms. Ybarra, I've given you a three-page  
2 packet; it's marked Respondent's 4. Does the cover sheet look  
3 familiar to you?

4 A This -- the -- the name looks familiar. I don't recognize  
5 the picture.

6 Q Can you turn to the second page? And have you -- do see  
7 the small font at the bottom next to the page number?

8 A Yes.

9 Q And what date is that?

10 A April 2020.

11 Q And is that the month that you started working at  
12 Starbucks?

13 A Yes.

14 Q And looking at pages 2 and 3, does -- does this format  
15 look familiar to you as to what the partner guide looks like?

16 A I believe it looks the way the partner guide looks now. I  
17 couldn't be sure that that's what it looks like then.

18 Q You have any reason not to believe that this -- these  
19 pages came from the April 2020 version of the partner guide?

20 A No.

21 Q And that that would have been the version that you got  
22 when you started Starbucks?

23 A That would make sense, yes.

24 MS. SAADE: I'd move to admit Respondent's 4, which is an  
25 excerpt from U.S. Partner Guide's U.S. Store Edition dated

1 April 2020.

2 JUDGE GIANNOPOULOS: All right. Any objections from the  
3 Union?

4 MS. MULTHAUP: No objection.

5 JUDGE GIANNOPOULOS: From the General Counsel?

6 MS. GARFIELD: No objection, Your Honor.

7 JUDGE GIANNOPOULOS: All right. Without objection, it's  
8 admitted.

9 **(Respondent Exhibit Number 4 Received into Evidence)**

10 MS. SAADE: Here is Respondent's 5.

11 JUDGE GIANNOPOULOS: Is there a reason -- is 5 just  
12 another excerpt of this?

13 MS. SAADE: It is, Your Honor.

14 JUDGE GIANNOPOULOS: I mean, quite honestly, if there was  
15 an objection -- if there was an objection, I would have made  
16 you introduce the entire part of it. But apparently, there was  
17 no objection. I mean, is there a reason why the whole guide  
18 isn't here in --

19 MS. SAADE: Just the volume, Your Honor. I'm trying to  
20 keep the -- the vo -- amount of paper down.

21 JUDGE GIANNOPOULOS: Doesn't matter to me. It all gets  
22 scanned in.

23 MS. SAADE: In the future, I will certainly do that, Your  
24 Honor.

25 JUDGE GIANNOPOULOS: If there was an objection, I would





1 make you produce the entire guide.

2 MS. SAADE: I -- I did produce it to the counsel for the  
3 General Counsel.

4 JUDGE GIANNOPOULOS: I mean to introduce it into -- into  
5 evidence because -- in any event, there was no objection.

6 MS. GARFIELD: So Your Honor, if -- if -- if the -- if the  
7 Respondent intends to introduce the next in order, then GC  
8 would be reje -- object because the be -- the best -- GC would  
9 request that she introduce the -- Respondent introduce the  
10 entire document.

11 JUDGE GIANNOPOULOS: All right. Well, 4 is already in.

12 MS. GARFIELD: Correct.

13 JUDGE GIANNOPOULOS: I don't know what 5 is. We're not  
14 there yet.

15 Go ahead. Next question.

16 MS. SAADE: Thank you.

17 Q BY MS. SAADE: Ms. Ybarra, could you please look at the  
18 second page of Respondent's 5 and please let us know what the  
19 date is on your copy there at the bottom of the footer.

20 A April 2020.

21 Q And does this format of pa -- of the second page appear  
22 consistent with the partner guide?

23 A It's consistent with the previous one, which is consistent  
24 with the -- the one that I have seen recently.

25 Q Do you have any reason to believe that this is not an

1 accurate copy of this page from the partner guide from April  
2 2020?

3 A No.

4 MS. SAADE: I'd move to admit Respondent's 5, Your Honor.

5 JUDGE GIANNOPOULOS: All right. Any objection to 5?

6 MS. GARFIELD: Yes. GC objects because GC requests that  
7 the entire document, rather than piecemeal parts of this  
8 partner guide --

9 JUDGE GIANNOPOULOS: I think so. I mean, I really think  
10 you need to get it in. Especially --

11 MS. SAADE: I have no problem doing that, Your Honor.

12 JUDGE GIANNOPOULOS: But even asking the witness -- I  
13 mean, I get it. This is probably the guide from April 2020.  
14 But I mean, the witness is giving me these answers of yes,  
15 probably, maybe, I don't have any reason to believe it's not  
16 it. That's not proper foundation to prove that this was the  
17 guide that Ms. Ybarra acknowledged in April of 2020. I mean,  
18 unfortunately, it's not.

19 MS. SAADE: I under -- I have no problem bringing it in  
20 through another --

21 JUDGE GIANNOPOULOS: Okay.

22 MS. SAADE: -- witness, Your Honor. I just would need  
23 some -- a break to make the copies --

24 JUDGE GIANNOPOULOS: That's fine.

25 MS. SAADE: -- for the --

1 JUDGE GIANNOPOULOS: No worries. We'll have -- you'll get  
2 a break. So 5 will go in the rejected exhibit file.

3 **(Respondent Exhibit Number 5 Rejected)**

4 Q BY MS. SAADE: Ms. Ybarra, when you recei -- at any point  
5 in time between December 22nd, 2020 -- 2021 and Januar --  
6 January 14th of 2022, did you take any steps to review the  
7 partner guide to determine how you can request time off in  
8 order to attend a legal proceeding?

9 A No, I preferred to ask my manager.

10 Q And your manager at the time was Pam Mariscal.

11 A Correct.

12 Q Have you worked at the store on a -- on a day where a  
13 partner has failed to call out or show up for their schedule --  
14 shift?

15 A Yeah. I'm sure I've been there for a shift where someone  
16 who didn't call out properly.

17 Q And has it impacted the operations of the shift?

18 MS. GARFIELD: Objection. Relevance.

19 JUDGE GIANNOPOULOS: Overruled.

20 A Yes. It's affected the flow of the shift.

21 Q BY MS. SAADE: In what way?

22 A It depends a lot on who called out and what day it is,  
23 honestly. Sometimes, it really just means that breaks are a  
24 little bit harder to run; sometimes, it means that we have to  
25 turn off deliveries for the day.

1 Q So based on your years of working at Starbucks, is it your  
2 preference then to have that -- that scheduled time away  
3 planned ahead of time so that there's adequate coverage?

4 A My presumption --

5 MS. GARFIELD: Objection. Objection.

6 JUDGE GIANNOPOULOS: Based on basis of?

7 MS. GARFIELD: Again, this doesn't go to the cons --

8 JUDGE GIANNOPOULOS: Okay. The -- I --

9 MS. GARFIELD: It's her opinion of what -- what people --  
10 she didn't -- the witness didn't ca -- she was not a no call/no  
11 show at any time, and so what impact her -- what -- what she's  
12 seen other employees en -- who do engage in such conduct or  
13 misconduct, one could say, is not relevant to this proceeding.

14 JUDGE GIANNOPOULOS: No, I understand. But Respondent has  
15 a right to make their defense. And I -- I will give them some  
16 leeway.

17 So you can reask the question.

18 Do you remember the question --

19 THE WITNESS: I do not.

20 JUDGE GIANNOPOULOS: -- Ms. Ybarra?

21 Why don't you reask the question, and then you can answer.

22 Q BY MS. SAADE: Ms. Ybarra, do you understand the purpose  
23 behind trying to find coverage for a shift that a partner's  
24 going to miss?

25 A Yes. Are you referring to the partner finding the

1 coverage or the manager?

2 Q Just -- I -- anybody finding coverage.

3 JUDGE GIANNOPOULOS: In essence, she's asking you about --  
4 does it disrupt operations if someone doesn't show up? Will  
5 make it di -- more difficult for people if the co -- if there's  
6 no one that's filling in for someone that's missed -- that's  
7 missing?

8 THE WITNESS: Correct.

9 JUDGE GIANNOPOULOS: Yeah. All right. I mean, that makes  
10 sense. Go ahead. Next question.

11 Q BY MS. SAADE: Now, you -- you described your  
12 conversation with Ms. Hager. Can you re -- be more specific  
13 wi -- to -- with me and tell me where you guys were located at  
14 the time you had the conversation?

15 A We were by the ovens.

16 JUDGE GIANNOPOULOS: And where is the oven? So  
17 unfortunately, like, I've never been here before.

18 THE WITNESS: Yeah.

19 JUDGE GIANNOPOULOS: I mean, I've been in a Starbucks  
20 before, but you know, sometimes, they're different. So why  
21 don't you explain to me the layout of -- of, like, what it  
22 looks like? Where was this oven?

23 THE WITNESS: I will do my best.

24 JUDGE GIANNOPOULOS: Okay.

25 THE WITNESS: The door -- you -- the first part of the

1 store that you walk into is the lobby. It's kind of an L  
2 shape, and on your left is one part of the lobby, directly  
3 forward is the other part. The closest section of the, like,  
4 service area is the hand-off station where we hand customers  
5 their drinks, then the bar, and then the registers. They're on  
6 the far end.

7 JUDGE GIANNOPOULOS: Okay.

8 THE WITNESS: The ovens are slightly further than the  
9 register but behind them.

10 JUDGE GIANNOPOULOS: Okay, so behind -- so if you're  
11 facing a customer -- if you're at the register facing the  
12 customer, the ovens would be behind you to your left?

13 THE WITNESS: That's correct.

14 JUDGE GIANNOPOULOS: All right. Very good. Thank you.

15 Q BY MS. SAADE: And so you're behind the bar having a  
16 conversation with your manager?

17 A That's correct.

18 JUDGE GIANNOPOULOS: Do you actually cook things in these  
19 oven, or is it just reheat things?

20 THE WITNESS: I -- I think it's just reheating.

21 JUDGE GIANNOPOULOS: Okay. I was just curious. Go ahead.  
22 Next question.

23 Q BY MS. SAADE: And how long did the whole conversation  
24 last?

25 A I couldn't tell you for sure. A couple minutes.

1 Q What did -- to the best of your recollection, what exactly  
2 did you say to start the conversation?

3 A I believe I said that I had received a subpoena and that I  
4 wanted to find out what was needed to make sure that I could be  
5 at the hearing.

6 Q And did you have a copy of the subpoena with you when you  
7 spoke to Ms. Hager?

8 A I would have had it accessible because I had received it  
9 as an email. I don't remember for sure if I had physically  
10 shown it to her.

11 Q Did you take any steps to print out a copy and -- and give  
12 it to Pam Mariscal?

13 A I don't have access to a printer.

14 Q Did you take any steps? Do you ha -- let me ask you this.  
15 Do you have a way to email Ms. Mariscal?

16 A I could, I believe. Yeah.

17 Q Did you take any steps to email her a copy of it?

18 A No.

19 Q Did you email a copy to Halley Hager?

20 A No.

21 Q What exactly were the words that Ms. Hager said to you?

22 A Again, I don't remember exactly. I believe that she said,  
23 according to corporate policy, this is not a protected absence.  
24 So I would need to find someone else to cover my shift or it  
25 would not be excused and I may receive discipline.

1 Q So you believe that she used the phrase, "it's not a  
2 protected absence"?

3 A I believe so.

4 Q Do you see that phrase in GC-5, your notes about the  
5 call -- or conversation. I'm sorry.

6 A No.

7 Q And it was your intent to try to accurately capture her  
8 exact words on January 14th when you created these notes,  
9 correct?

10 A That was my intent.

11 Q Did you indicate to Ms. Hager what -- what day you had  
12 actually -- what date your subpoena said the hearing began?

13 A I don't remember for sure. I know that I told her that I  
14 would likely be testifying on the 17th because I had forgotten  
15 that that was a holiday.

16 Q And how did you -- how did the conversation end?

17 A I acknowledged that she said that I would need to find  
18 someone else to cover my shift and then left.

19 Q Did Ms. Hager say anything to you indicating that if  
20 you -- that if you found someone to cover your shift, it would  
21 be an excused absence?

22 A Not -- not directly, but if I find someone else to cover  
23 my shift, it's not really an absence at that point. I just  
24 traded shifts with somebody.

25 Q And as I think you earlier testified, you -- there is no



1 risk of you actually missing work, so you didn't take any steps  
2 to cover your shifts, correct?

3 A I didn't know in advance. I -- again, I forgot that the  
4 17th was a holiday. And so I believed that I would need to  
5 take the day off in order to testify.

6 Q So di -- on January 14th, did you take any steps to try to  
7 find coverage for your shift on the 17th?

8 A No, because I didn't know when I would be testifying yet.

9 Q And when did you find out that you would be testifying on  
10 the 18th?

11 A I don't remember. It wasn't -- it -- it was -- I had a  
12 short time -- time period.

13 Q Are you aware of any steps that Justin Ferguson took in  
14 response to the conversation with Halley Hager in an effort to  
15 try to find coverage for any shifts that he was scheduled and  
16 thought he was going to miss?

17 A I'm not aware of any.

18 Q Are you aware of any work hours that Mr. Ferguson missed  
19 in order to attend the hearing?

20 A No.

21 Q Are you aware of any partner at the Broadway and Denny  
22 store that missed any -- that was un -- that -- that had to  
23 work instead of attend the hearing?

24 A Justin and I went to our scheduled shifts instead of  
25 attending the entirety of the hearing.

1 Q And when you say the entirety of the hearing, that was  
2 before you had the conversation with Halley Hager, correct?

3 A Correct.

4 Q So you chose to work instead of go to the hearing?

5 A I chose to attend my scheduled shifts, yes.

6 JUDGE GIANNOPOULOS: But you were watching the hearing at  
7 that point just as an observer.

8 THE WITNESS: Correct.

9 JUDGE GIANNOPOULOS: Yeah. Okay.

10 Q BY MS. SAADE: Did Halley Hager tell you that you needed  
11 to follow up with Pam Mariscal?

12 A I don't remember.

13 Q So it's possible she said that?

14 A It's possible. I don't believe she did.

15 Q You understood that Ms. Hager was only there to cover Pam  
16 Mariscal for that day?

17 A Yes.

18 Q And --

19 A I -- actually, I don't know for sure that that's true. I  
20 don't remember how long Pam was on vacation.

21 Q But it was a short period of time.

22 A It could have been as long as a week. I'm not positive.

23 Q Isn't it true, though, that you worked with Pam Mariscal  
24 earlier in the week?

25 A I don't remember for sure. She may have been on vacation.

1 Q But the -- the -- January 14th was the first day that you  
2 worked with Halley Hager, correct?

3 A I don't know for sure.

4 Q But you don't have any specific memory of working with her  
5 earlier?

6 A Not earlier that week. I don't remember for sure. It --  
7 it was nine months ago.

8 Q So you're -- you admit that your memory of what happened  
9 in January as you sit here today is not as --

10 MS. GARFIELD: Objection.

11 Q BY MS. SAADE: -- as crisp as it was when you wrote your  
12 notes on January 14th?

13 JUDGE GIANNOPOULOS: So there was an objection. On what  
14 basis?

15 MS. GARFIELD: Mischaracterizes the witness' testimony.

16 JUDGE GIANNOPOULOS: Overruled.

17 MS. SAADE: Do you need the question repeated?

18 THE WITNESS: Yes, I do.

19 MS. SAADE: Bruce, would you mind? Or Mr. Court -- Court  
20 Reporter, I apologize.

21 JUDGE GIANNOPOULOS: Bruce, can you repeat the question?

22 What -- it might be easier if you just reask it.

23 MS. SAADE: Sure. No problem.

24 THE COURT REPORTER: Yeah.

25 Q BY MS. SAADE: Ms. Ybarra --

1 MS. SAADE: I don't see how -- I'm going to forget how I  
2 exactly phrased it. I apologize, Your Honor.

3 JUDGE GIANNOPOULOS: That's okay.

4 MS. SAADE: I can ask the court reporter to repeat it.

5 JUDGE GIANNOPOULOS: Bruce, ca -- are you able to go back?

6 THE COURT REPORTER: Yeah. I got it. It's good. Give me  
7 a second here.

8 So you admit your memory today is not as good as it is  
9 today as it was on your notes. That's what you asked her.

10 MS. SAADE: Yes.

11 A My notes would have reflected the important details of  
12 what the -- what I felt were the important details of the  
13 conversation at the time.

14 Q BY MS. SAADE: As a partner at the Broadway and Denny  
15 store, do you have any resources available to you that you can  
16 contact if you have questions about the company's policies?

17 A Yes, my first -- my -- my go-to person to ask questions to  
18 is supposed to be my manager.

19 Q And what other resources do you have available to you?

20 A Theoretically, I could look at the partner guide; I could  
21 call partner resources; I could look on the website.

22 Q And those website addresses and the phone numbers are  
23 readily available to you in the workplace?

24 A They are written down on a piece of paper in the back.

25 Q And is that written down on the Make the Right Call flyer?

1 That's the --

2 A Probably. I don't know.

3 Q Ms. Ybarra, I've given you a one-page document marked  
4 Respondent's 6. Does this document look familiar to you as the  
5 document you were just describing?

6 A Yes.

7 MS. SAADE: I have moved to admit Respondent's 6, please.

8 JUDGE GIANNOPOULOS: All right. Any objections from the  
9 Union?

10 MS. MULTHAUP: No objections.

11 JUDGE GIANNOPOULOS: From the General Counsel?

12 MS. GARFIELD: No objections.

13 JUDGE GIANNOPOULOS: All right. Respondent's 6 is  
14 admitted.

15 **(Respondent Exhibit Number 6 Received into Evidence)**

16 MS. SAADE: Thank you.

17 Q BY MS. SAADE: Ms. Ybarra, after you had the -- the  
18 conversation with Halley Hager, did you contact partner  
19 relations to ask them what you could do about your schedule and  
20 the hearing subpoena?

21 A No, I had received my answer.

22 Q Did you speak with any other shift supervisor or covering  
23 manager at the Broadway and Denny store to ask them their --  
24 their take or their opinion on the matter?

25 A I had spoken to other shifts -- I had spoken to shifts



1 about how I should approach the issue. They advised me --  
2 my -- my recollection is that they advised me to talk to the  
3 manager.

4 Q And you weren't disciplined at all because of that  
5 conversation you had with Halley Hager, correct?

6 A I did not receive any official cleraca -- corrective  
7 action.

8 Q And did the conversation make you mad or angry?

9 A Is that relevant?

10 JUDGE GIANNOPOULOS: Just answer the question. There's no  
11 objection, ma'am. Just answer the question.

12 A Not particularly.

13 Q BY MS. SAADE: Did you follow up with Halley Hager later  
14 in the day to ask for any further clarification?

15 A I believe I thanked her for answering my question.

16 Q Did you ask her to -- to check on anything else about  
17 company policy and get back to you?

18 A No, she had answered my question.

19 Q And what was your understanding that -- about the --  
20 her -- her response? Was that that you could not attend the  
21 hearing, or that you were expected to make an effort to find  
22 coverage if you were going to miss a scheduled shift?

23 JUDGE GIANNOPOULOS: Or was it something else? I mean,  
24 there -- I know it's cross, but what was your understanding?

25 THE WITNESS: My understanding was that if I did not find

1 coverage for the shift, I would be disciplined.

2 JUDGE GIANNOPOULOS: All right. Next question.

3 Q BY MS. SAADE: Are you aware of Mr. Ferguson being  
4 disciplined in any way because of his attendance at the  
5 hearing?

6 A Not as far as I know.

7 Q I'd like to turn your attention to the --

8 JUDGE GIANNOPOULOS: Before we do that, you've been on the  
9 witness stand, ma'am, an hour and 15 minutes. We'll take a  
10 ten-minute break. Don't discuss your testimony with anyone  
11 during the break, and we'll take 10 minutes.

12 (Off the record at 2:31 p.m.)

13 JUDGE GIANNOPOULOS: All right. We're back on the record.  
14 Go ahead, Ms. Saade.

15 Q BY MS. SAADE: Ms. Ybarra, I want to turn your attention  
16 to the incident in which you testified about earlier that  
17 happened towards the end of January, in which you had an  
18 encounter with a customer by the name of Jen (phonetic  
19 throughout). I believe you identified her.

20 A Yes.

21 Q So if I understa -- stand your testimony correctly, she  
22 voiced some interest in the union campaign. Is that correct?

23 A Specifically in the pin that I was wearing.

24 Q So she specifically referenced the pin. She didn't just  
25 make a general inquiry for a flier or other materials?

1 A Correct. She said specifically that she liked my pin.

2 Q And you told her that you had a friend that made the pins?

3 A Yes. And that I had some in my locker.

4 Q And so you left the floor to go get them?

5 A Yes.

6 Q And you were still on the clock at this time, right?

7 A Yes.

8 Q And you're still wearing your green apron during this  
9 time?

10 A Correct.

11 Q And if I understood your testimony correctly, this  
12 conversation with her happened while you're behind the register  
13 and she's a customer coming up to order.

14 A Correct.

15 Q And --

16 MS. GARFIELD: Excuse me. Can you just make it -- I  
17 want -- you need to wait -- if I may, Your Honor. If you --

18 JUDGE GIANNOPOULOS: Is there -- is there --

19 MS. GARFIELD: -- if you please. I'm sorry, Your Honor.

20 JUDGE GIANNOPOULOS: What -- what are we talking about?

21 No talking -- no cross talking. If you have something to say,  
22 say objection --

23 MS. GARFIELD: Yes.

24 JUDGE GIANNOPOULOS: -- or address me. Address it to me.

25 MS. GARFIELD: Okay. I'm addressing it to you. That's



1 where I -- I -- I righted myself. Ye -- please instruct the  
2 witness, Your Honor, to wait for the lawyer's question before  
3 she answers.

4 JUDGE GIANNOPOULOS: Oh, okay. I think she did.

5 But -- but Ms. Ybarra, wait for the lawyer to finish the  
6 question.

7 But I -- I thought she did. Go ahead.

8 Q BY MS. SAADE: So Ms. Ybarra, when you left the bar and  
9 the register -- the bar, had -- had the customer already placed  
10 her order with you?

11 A I don't believe I was the one on register at the time.

12 Q But she was at the bar placing an order. Correct?

13 A Correct.

14 Q And you were --

15 JUDGE GIANNOPOULOS: You -- you say correct like -- the  
16 way you said correct -- the tone of your voice was -- it will  
17 come out in the transcript as correct, but let the record  
18 reflect the way you said it was almost like you were asking a  
19 question, whether it was correct.

20 THE WITNESS: My --

21 JUDGE GIANNOPOULOS: If you don't remember, you can say, I  
22 don't remember. If you do remember, then say what happened.  
23 Do you remember if she had placed her order or not placed her  
24 order?

25 A I don't remember if she had placed her order already. My

1 confusion comes from the fact that I was not the one taking her  
2 order at the time.

3 JUDGE GIANNOPOULOS: Okay. So next question.

4 Q BY MS. SAADE: Do you recall what -- what position you  
5 were working at that time?

6 A I don't remember for sure. I believe I was CS.

7 JUDGE GIANNOPOULOS: Right. So now you have to  
8 understand, I have no idea what that means. When -- when  
9 the -- when the -- you know, when you said what position were  
10 you working? I was thinking, you know, second base, third  
11 base, manager.

12 A Your Honor, it --

13 JUDGE GIANNOPOULOS: Maybe you have things set up like  
14 that. So why don't you explain to me how it works on a general  
15 day, and what --

16 A It is --

17 JUDGE GIANNOPOULOS: -- these positions are, and how the  
18 entire operation works, because I have no clue.

19 A The intention of the CS position is that -- I believe it's  
20 customer service -- is that they're a floating support.

21 JUDGE GIANNOPOULOS: Okay.

22 A The register person is theoretically a planted position.  
23 They don't move from register unless they have to. And the --  
24 the purpose of the register and the CS role are both to provide  
25 a customer experience, to make the moment -- make the moment

1 right or make moment -- the -- the -- the visit memorable.

2 JUDGE GIANNOPOULOS: I mean, does anyone make coffee?

3 THE WITNESS: Yes. My manager was on the bar at the time.

4 JUDGE GIANNOPOULOS: Okay. All right. So how does it  
5 work typically and forget about this day. In a typical day  
6 when you're working, how many people are working at the store?

7 THE WITNESS: What time?

8 JUDGE GIANNOPOULOS: I don't know, like, in the mor --  
9 what kind of shifts do you work?

10 THE WITNESS: Morning.

11 JUDGE GIANNOPOULOS: The morning shift. What is a typical  
12 morning shift? How many workers? Who does what? Who makes  
13 the coffee?

14 THE WITNESS: First thing in the morning, there are -- at  
15 my store, there are usually three people who come in to open  
16 the store.

17 JUDGE GIANNOPOULOS: Okay.

18 THE WITNESS: Depending on how busy a given store is, at  
19 the time we did not have a person who came in right to open; we  
20 currently do. And so there would be three people until another  
21 person come in, usually at 6:30 or 7 --

22 JUDGE GIANNOPOULOS: Okay.

23 THE WITNESS: -- an hour and a half or so after we open.

24 JUDGE GIANNOPOULOS: Does that include the manager?

25 THE WITNESS: The manager is not always the one who opens

1 the store.

2 JUDGE GIANNOPOULOS: Okay. So -- okay. So on a typical  
3 day, how many people are there, including the manager, and who  
4 does what?

5 THE WITNESS: In the morning, usually there are five or  
6 six people during peak --

7 JUDGE GIANNOPOULOS: Okay.

8 THE WITNESS: -- the hours of roughly 8 to 10 or 11 in the  
9 store.

10 JUDGE GIANNOPOULOS: All right.

11 THE WITNESS: And the manager is not always in. The  
12 manager is also not always on the floor.

13 JUDGE GIANNOPOULOS: Okay.

14 THE WITNESS: There are multiple positions, including  
15 warming, bar, consolidation -- I will explain all of these in a  
16 second -- CS, and register. There are a couple of other roles  
17 that might exist depending on how busy the day is. The person  
18 on bar is the one making -- making the complex drinks. The  
19 person on CS is usually responsible for brewing, so like, the  
20 drip coffee --

21 JUDGE GIANNOPOULOS: Okay.

22 A -- and potentially any of the pour overs, which, just --  
23 they take, like, 5 or 10 minutes, so the person on bar usually  
24 can't do it and also for, like, restocking, keeping the bar  
25 person, like, able to do their job and everyone else able to do

1     their job, as well as cleaning the store. The person on  
2     register is taking orders. The person on consolidation is  
3     making sure everyone is getting their orders at the same time  
4     and like, all of their order at once.

5             JUDGE GIANNOPOULOS: Okay, great. And the day of the pin  
6     incident.

7             THE WITNESS: Yes.

8             JUDGE GIANNOPOULOS: You were working customer service.

9             THE WITNESS: I believe so.

10            JUDGE GIANNOPOULOS: All right. All right. Thank you.  
11     Go ahead. Next question.

12            Well, let me ask you one more question. We talked about  
13     these aprons, and only because I used to work somewhere where I  
14     had to wear an apron, I was curious. These -- the apron that  
15     you wear, I mean, I think I've seen one -- just have -- going  
16     into a Starbucks store. It's, like, basically a -- like, a  
17     grocer's apron, a clerk's apron. It's a green -- you know, it  
18     goes over your neck.

19            THE WITNESS: Yes.

20            JUDGE GIANNOPOULOS: And the apron itself, are you  
21     supposed to wear it when you're on the clock?

22            THE WITNESS: Yes. Until recently, I had not -- the --  
23     the rule -- the policy was that you were supposed to take your  
24     apron off during your 10s. But I had -- that rule had not been  
25     during.

1 JUDGE GIANNOPOULOS: During your what?

2 THE WITNESS: During our ten-minute breaks.

3 JUDGE GIANNOPOULOS: Oh, I see.

4 THE WITNESS: That rule had not been consistently  
5 enforced --

6 JUDGE GIANNOPOULOS: Okay. So it was --

7 THE WITNESS: -- during the time.

8 JUDGE GIANNOPOULOS: -- while you were there.

9 THE WITNESS: Correct.

10 JUDGE GIANNOPOULOS: During -- during the time -- what was  
11 the general practice? Say you're on a break and need to step  
12 outside?

13 THE WITNESS: If you're stepping outside, usually the  
14 apron comes off. When we go into the back or if we run into  
15 the front for a minute, usually the apron does not come off.

16 JUDGE GIANNOPOULOS: All right. Very good. Thank you.

17 THE WITNESS: But it does depend on the person.

18 JUDGE GIANNOPOULOS: All right. Thanks. Go ahead. Thank  
19 you.

20 Ms. Saade, next question.

21 Q BY MS. SAADE: Ms. Ybarra, isn't it true that the customer  
22 service position is stationed at the bar and it's not intended  
23 that that position will run to the back of the store?

24 A Incorrect. That position is inherently meant to be  
25 mobile.

1 JUDGE GIANNOPOULOS: All right. Next question.

2 Q BY MS. SAADE: Ms. Ybarra, during the -- the incident with  
3 the customer, isn't it true that you had to leave the -- leave  
4 the bar to go get these items and it left -- left the bar  
5 understaffed?

6 A No.

7 JUDGE GIANNOPOULOS: All right. Next question.

8 Q BY MS. SAADE: Ms. Ybarra, when you left the bar, did you  
9 tell Pam, your manager -- Pam Marcella, who was working next to  
10 you, that you were leaving your workstation to go get  
11 something?

12 A My manager's name is Pam Mariscal, but I did not feel the  
13 need to in -- to tell her.

14 JUDGE GIANNOPOULOS: That's just a yes or no question.  
15 Did you tell her that you were leaving the bar to go get  
16 something?

17 A I did not tell her directly because she was standing next  
18 to me.

19 JUDGE GIANNOPOULOS: Okay. Next question.

20 Q BY MS. SAADE: On the -- when -- when you are working the  
21 bar in the customer service role and you need to go use the  
22 restroom, do you let someone know that you're leaving the  
23 floor?

24 A Usually.

25 Q When you left to go get the buttons for the customer, did

1     you -- you said you went to go get them from your locker?

2     A     Correct.

3     Q     Isn't it true that you also -- that -- that you tend to  
4     keep a bag of the buttons in the back room on -- on a table?

5           MS. GARFIELD:  Objection.

6           JUDGE GIANNOPOULOS:  On what basis?

7           MS. GARFIELD:  Relevance.

8           JUDGE GIANNOPOULOS:  Well, did you -- what is the  
9     relevance?  That you're -- are you saying that she didn't get  
10    it from her locker, she got it from a bag that was on the  
11    table?

12          MS. SAADE:  Yes, Your Honor.  And I al -- I -- I -- I do  
13    want to question -- I am intended to -- I have the right to  
14    question the credibility of the witness.

15          I also have the right to -- to question the witness about  
16    how frequently she did this because I think that's going to be  
17    an issue in dispute.

18          And I also do believe that there's going to be -- there's  
19    relevance in terms of -- you know, this again comes back to  
20    what did the manager say and what is the context of it?

21          JUDGE GIANNOPOULOS:  When you say how frequently she did  
22    this, you mean how frequently she went back to get buttons to  
23    give to customers?

24          MS. SAADE:  Yes.

25          JUDGE GIANNOPOULOS:  Okay.  All right.



1           So did you keep a bag of buttons on the table in the back  
2   room?

3           THE WITNESS: There may have been a bag of buttons on the  
4   table at some time, but I kept it in my locker.

5           JUDGE GIANNOPOULOS: Okay.

6           THE WITNESS: As a --

7           JUDGE GIANNOPOULOS: The day in question, do you remember  
8   having a bag of buttons on the table in the back room?

9           THE WITNESS: I believe it was in my locker.

10          JUDGE GIANNOPOULOS: All right. So there you go. Next  
11   question.

12          MS. SAADE: I need to enter -- show the witness the next  
13   exhibit, Your Honor.

14          JUDGE GIANNOPOULOS: Sure.

15   Q     This is a copy of a photo. It's marked Respondent's 7.  
16   Is that an accurate copy of the bag of buttons that you would  
17   keep at the store?

18   A     Yes, I believe so, at that time.

19   Q     In January of 2022?

20   A     Yes.

21   Q     Okay. And is this a photo of the bag in a locker or on a  
22   table?

23   A     The bag's on a table.

24          MS. GARFIELD: Objection.

25          JUDGE GIANNOPOULOS: Okay. Let's start with the General

1 Counsel, since you spoke first. What -- on what -- on what  
2 basis?

3 MS. GARFIELD: First of all -- first of all, there is --  
4 there is improper foundation for this exhibit. I don't know  
5 what date it was taken or -- or -- or where it was taken or by  
6 whom it was taken. And I think the best way to get this in,  
7 frankly, is through the person who took the photo. But  
8 regardless, I think it's improper foundation. I don't know  
9 that it's relevant to this witness' testimony. And --

10 JUDGE GIANNOPOULOS: All right. So how about from the  
11 Union?

12 MS. MULTHAUP: We have no objection.

13 JUDGE GIANNOPOULOS: All right --

14 MS. SAADE: May I respond?

15 JUDGE GIANNOPOULOS: Of course.

16 MS. SAADE: So Your Honor, I am not asking her questions  
17 to authenticate that this was a photo of that particular day in  
18 question. I can have another witness provide that testimony.  
19 However, I simply have asked her the questions related to -- is  
20 this the -- the bag of buttons that she had at work during that  
21 time period?

22 JUDGE GIANNOPOULOS: Okay. And -- and she testified that  
23 she had, you know, a bag of buttons at times, and she said at  
24 times -- at one point, it may have been on the table; is that  
25 right?

1 MS. SAADE: Correct.

2 JUDGE GIANNOPOULOS: All right, and so -- and this looks  
3 about -- I don't know, do you recognize the table?

4 THE WITNESS: I do.

5 JUDGE GIANNOPOULOS: All right. And it's two bags of  
6 buttons. But these were buttons that -- I guess, I mean, I'm  
7 assuming that it was an organizing drive, that the supporters  
8 had buttons. So are these -- does this look like the kind  
9 of -- you know, the Ziploc bags you kept your buttons in?

10 THE WITNESS: It does.

11 JUDGE GIANNOPOULOS: All right. Do you recognize whose  
12 shoe that is?

13 THE WITNESS: It might be my manager's? That would --  
14 that would be a bold guess.

15 JUDGE GIANNOPOULOS: All right.

16 So you know, I -- I will let it in. But you know, you're  
17 treading on fine line -- I don't want amendments to the  
18 complaint. What I don't want is evidence in this case that  
19 Starbucks managers were taking pictures of -- of employees  
20 engaged in union activity, so tread lightly, because if the  
21 next witness is going to be your manager testifying that she  
22 took pictures of this button, I don't want -- I don't want to  
23 be faced with -- with -- with potential amendments to this  
24 complaint.

25 But I'll admit it for what the testimony was. But the

1 testimony was that she had bags of buttons at times at work,  
2 and at one point in time, they were on a table in the back  
3 room, and this looks like a bag that she had at one point in  
4 the back room. Next question.

5 Q BY MS. SAADE: Ms. Ybarra, you mentioned that you had a  
6 conversation with your manager about distributing pins or  
7 buttons in the workplace, correct?

8 A Correct.

9 Q And did Ms. Mari -- Mari -- Mariscal at any point advise  
10 you that you were not allowed to distribute buttons to your  
11 coworkers in the workplace?

12 MS. GARFIELD: Objection. Beyond the scope. It -- it  
13 mischaracterizes her prior testimony. It -- and it  
14 mischaracterizes the allegations before Your Honor. This isn't  
15 what we're trying here.

16 JUDGE GIANNOPOULOS: I get it. We're starting -- we're  
17 going far afield. But did -- I'll let her ask the question.  
18 The -- the case is not about her distributing buttons to her  
19 coworkers, but go ahead, answer the question.

20 Do you remember the question? Did she -- she say anything  
21 about distributing buttons to your coworkers or not  
22 distributing buttons to your coworkers?

23 THE WITNESS: Not at the time.

24 JUDGE GIANNOPOULOS: Okay.

25 Q BY MS. SAADE: And did your manager at any point advise

1     you that you couldn't distribute buttons either before or after  
2     your shift to customers?

3     A     Not as far as I know. She did make specific comment about  
4     me being on Starbucks property.

5     Q     And did you --

6           JUDGE GIANNOPOULOS: And what did she say about Starbucks  
7     property?

8           THE WITNESS: That I could not be distributing buttons  
9     while at work on Starbucks property.

10          JUDGE GIANNOPOULOS: All right.

11     Q     BY MS. SAADE: While on work or on work time?

12          JUDGE GIANNOPOULOS: Or company time? The first time you  
13     said it, you said company time.

14          THE WITNESS: Work time and company time I have -- may  
15     have interchanged those in my brain. I believe it was work  
16     time or company time.

17          JUDGE GIANNOPOULOS: All right. So it was one of the two.

18     Q     BY MS. SAADE: So you don't recall which of the -- which  
19     of the terms she used, but you understood that she was telling  
20     you that you couldn't hand out buttons -- buttons to a customer  
21     while on work time?

22     A     Correct.

23     Q     So that meant on paid time, correct?

24     A     That's correct.

25          JUDGE GIANNOPOULOS: And is that how you understood it

1       when she said that to you, that --

2               THE WITNESS:   That is --

3               JUDGE GIANNOPOULOS:   -- or not?

4               THE WITNESS:   I understood it to be the content of what  
5       she said.

6               JUDGE GIANNOPOULOS:   Which is?

7               THE WITNESS:   That I could not distribute items while at  
8       work on the clock.

9               JUDGE GIANNOPOULOS:   All right, go ahead.

10      Q       BY MS. SAADE:   And you indicated that you had this  
11      conversation with your manager the next day?

12      A       That's correct.

13      Q       Did she -- did -- did she indicate to you that someone had  
14      instructed her to have the conversation with you?

15      A       No.

16      Q       Did she indicate that she thought that your conduct was  
17      okay the day before, but she had changed her mind?

18      A       No.

19      Q       When you -- when this happened the day before on the 26th,  
20      was there any occasion where you and -- and your manager were  
21      alone between the time that you handed the button to the  
22      customer until you left your shift?

23      A       Not as far as I recall, but my manager has made time for  
24      us to be alone before.

25      Q       Wouldn't you agree though that it was more convenient to

1 just meet with you the next morning at the start of your shift?

2 MS. GARFIELD: Objection.

3 JUDGE GIANNOPOULOS: Sustained.

4 Q BY MS. SAADE: Ms. Ybarra, did you get any indication from  
5 your manager that she was attempting to stop you from  
6 supporting the union while you were at work?

7 MS. GARFIELD: Objection.

8 JUDGE GIANNOPOULOS: Overruled.

9 Did she say anything to you about that? The -- the  
10 question was kind of vague, quite honestly, in attention --

11 THE WITNESS: Yeah.

12 JUDGE GIANNOPOULOS: -- but did she say anything to you  
13 about you not being able to support the union while at work,  
14 other than what you said about the pin, handing the pin to a  
15 customer?

16 THE WITNESS: She didn't say that I could not wear my pin.  
17 She did not say that I could not -- she did not say at that  
18 time that I could not talk to customers about the union. But  
19 she did bring me to the back alone to talk to me privately.

20 JUDGE GIANNOPOULOS: All right, next question.

21 Q BY MS. SAADE: And this -- this period of time in January  
22 of 2020, you are wearing a pin at work on your apron, correct?

23 A Yes.

24 Q And are you also wearing other union logo clothing or  
25 items?

1 A No, that was against policy at the time.

2 Q So do you recall giving a -- a written statement to the  
3 National Labor Relations Board?

4 A Several.

5 Q Do you recall giving one in February of 2022 about the  
6 incidents that you've described today?

7 A Yes.

8 Q And what was the process to prepare that affidavit?

9 A I spoke with the NLRB agent.

10 Q And then did you receive a draft of that statement?

11 A Yes.

12 Q And you had an opportunity to make edits to it?

13 A Correct.

14 Q And when you were making edits, you made a -- a good faith  
15 effort to make sure that it was factually accurate?

16 A I did.

17 Q And does -- do you recall reviewing and signing it at the  
18 beginning of February?

19 A I -- I believe it would have been the beginning of  
20 February.

21 Q Does February 4th, 2022 sound correct?

22 A Roughly, yes.

23 Q And since you signed that document, have you had an  
24 occasion to review it?

25 A Yes.





1 Q Since -- and when did you last review it?

2 A I think I looked at it this morning and last week.

3 Q So you used it to refresh your memory to testify today?

4 A Yes.

5 Q And you made a good faith effort to accurately capture the  
6 conversations that you had with your store manager and Halley  
7 Hager?

8 A Yes.

9 Q So it -- so in -- in your statement, if --

10 MS. SAADE: Oh, I guess, Your Honor, if I could make --

11 JUDGE GIANNOPOULOS: Is -- is there a part of your  
12 state -- is -- are you trying to impeach the witness? Is there  
13 something in that statement --

14 MS. SAADE: Yes.

15 JUDGE GIANNOPOULOS: -- that you think is improper, or  
16 that is impeachment?

17 MS. SAADE: Yes, may I do that, Your Honor?

18 JUDGE GIANNOPOULOS: All right, let's -- what are you  
19 talking about? Hand it to her. Give her the -- give her the  
20 statement --

21 MS. SAADE: I would like to ask --

22 JUDGE GIANNOPOULOS: Give her the statement and direct her  
23 to the line and give me a copy. If there's a line in there  
24 that you think is impeaching her testimony, direct her to it.

25 MS. SAADE: May I ask a couple of questions first, Your

1 Honor?

2 JUDGE GIANNOPOULOS: On what basis? Not about the  
3 statement.

4 MS. SAADE: Well, if I'm going to show her the -- the  
5 written statement, I do have other lines in there that I want  
6 to ask her about. I'd rather ask her those questions, for --

7 JUDGE GIANNOPOULOS: So the way you do it is you get her  
8 to say on the record what part of the testimony that you think  
9 you're going to impeach and then -- and then direct her to the  
10 statement that you think impeaches it. So -- so -- so what are  
11 you doing?

12 MS. SAADE: I would like to ask her a couple more  
13 questions, and then I will direct her to the statement.

14 JUDGE GIANNOPOULOS: One at a time. We're going to do it  
15 one at a time.

16 MS. SAADE: Okay.

17 JUDGE GIANNOPOULOS: One statement at a time.

18 MS. SAADE: All right.

19 May I have another copy. Is there --

20 MS. GARFIELD: I -- I don't -- this is what I have. In  
21 clean copies.

22 JUDGE GIANNOPOULOS: I need a copy.

23 MS. SAADE: Yes, I understand that. I don't have a copy  
24 though, with nothing written on.

25 MS. GARFIELD: We can go off the record and I can get --

1 JUDGE GIANNOPOULOS: Let's get -- let's get another copy.  
2 Set that aside, set that upside down, ma'am.

3 MS. GARFIELD: Okay.

4 JUDGE GIANNOPOULOS: Let's get another copy.

5 Does the Union have a copy?

6 MS. MULTHAUP: No, I don't have a copy.

7 JUDGE GIANNOPOULOS: Get a copy for the Union.

8 MS. GARFIELD: Fair enough.

9 JUDGE GIANNOPOULOS: Let's go off the record.

10 (Off the record at 3:03 p.m.)

11 JUDGE GIANNOPOULOS: All right, we're back on the record.

12 MS. SAADE: Thank you.

13 Q BY MS. SAADE: Ms. Ybarra, I believe you have in front of  
14 you a copy of your February 4th, 2022 affidavit.

15 (Counsel confer)

16 JUDGE GIANNOPOULOS: Let's see -- let's see what you have  
17 there, Ms. Ybarra.

18 THE WITNESS: I do --

19 JUDGE GIANNOPOULOS: No, she does not.

20 THE WITNESS: -- not have the affidavit.

21 MS. SAADE: Do you have another copy?

22 THE WITNESS: Several other papers.

23 JUDGE GIANNOPOULOS: I will share my copy. Next question.

24 MS. SAADE: Okay.

25 JUDGE GIANNOPOULOS: We're sharing a copy. Go ahead, next

1 question.

2 MS. SAADE: Thank you.

3 Q BY MS. SAADE: Ms. Ybarra, I'd like to turn your attention  
4 please to page 2 of your affidavit, line 10. The sentence  
5 begins "I" --

6 JUDGE GIANNOPOULOS: Before -- before you do that, Ms.  
7 Ybarra, let me just show -- take a look at it --

8 THE WITNESS: Okay.

9 JUDGE GIANNOPOULOS: -- flip through it, tell me if you  
10 recognize it. Tell me if those are your edits and that's your  
11 signature on the last page.

12 THE WITNESS: Yes, this looks correct.

13 JUDGE GIANNOPOULOS: Okay, great. And those are your  
14 initials --

15 THE WITNESS: Content-wise.

16 JUDGE GIANNOPOULOS: -- those are your initials on the  
17 other pages?

18 THE WITNESS: They sure are.

19 JUDGE GIANNOPOULOS: And you were under oath. You -- they  
20 swore you in. You were under oath when you gave them?

21 THE WITNESS: That is correct.

22 JUDGE GIANNOPOULOS: All right, so go ahead. Page 2, line  
23 what was that?

24 MS. SAADE: Line 10, Your Honor.

25 Q BY MS. SAADE: So in your earlier testimony you indicated

1     that Justin Ferguson was present for your conversation with  
2     Halley Hager.  However, on line 10 of your affidavit, isn't it  
3     true that it indicates here that he was not present and you had  
4     to go -- you went to go mention the conversation to him?

5           JUDGE GIANNOPOULOS:  All right, line 10 of the affidavit  
6     says, "I mentioned what had happened to Justin Ferguson, who  
7     was one of the other workers who was involved in the union  
8     organizing campaign."  That's what line 10 of your affidavit  
9     says.

10           Next question.

11     Q     BY MS. SAADE:  Is line 10 correct of what happened on that  
12     date?

13     A     No.  I believe in an effort to clarify that Justin  
14     Ferguson had an understanding of what had happened, I  
15     overclarified and explained that he was both at the -- at the  
16     interaction and also that we had talked about it later.  Which  
17     we had talked about it later, but he already knew about it  
18     already.

19           JUDGE GIANNOPOULOS:  Okay, now turn your affidavit aside,  
20     put it aside.

21           All right, go ahead.

22     Q     BY MS. SAADE:  Ms. Ybarra, isn't it true that Halley Hager  
23     only spoke to you one-on-one?

24     A     No.

25     Q     Can you -- can you please turn to page 3 of your

1 affidavit?

2 JUDGE GIANNOPOULOS: All right. Grab your affidavit and  
3 turn to page 3.

4 MS. SAADE: Is a --

5 JUDGE GIANNOPOULOS: And which line are you talking about?

6 Q BY MS. SAADE: If I direct your attention to line 14  
7 please, doesn't it say, "On January 26th, I was working and  
8 serving a customer." Actually, can you please just read line  
9 14 for me, please?

10 A "On January 26th, I was working serving a customer, Jen,  
11 do not know her last name, when the customer was interested in  
12 the organizing campaign. She's a regular customer. She works"  
13 at -- she works "two doors down from our store" -- sorry, lots  
14 of typos. From our store "at Phoenix Cards and Comics (sic)."

15 JUDGE GIANNOPOULOS: All right, that's all.

16 Q BY MS. SAADE: Now so isn't it true that you were working  
17 and serving her at the time you had this conversation with her?

18 A Serving in the -- working at Starbucks, we generally refer  
19 to all interactions with customers as serving the customers.

20 Q But in your mind, you were assisting the customer for her  
21 purpose of being a customer at Starbucks when you had this  
22 conversation with her, correct?

23 A In my mind, I was working at Starbucks and in doing so,  
24 serving a customer.

25 Q The next sentence, please. "I told her."

1       A       "I told her that I had a friend who had made the Starbucks  
2       Workers United pins, and she expressed interest in that, so I  
3       told her I could get her a couple of them."

4               JUDGE GIANNOPOULOS: That fine. That's it.

5       Q       BY MS. SAADE: Okay. Okay. So my question for you then  
6       is, isn't it true based on your affidavit that she -- that  
7       you're the one who initiated the topic of the buttons?

8       A       No.

9               JUDGE GIANNOPOULOS: All right, next question.

10      Q       BY MS. SAADE: I ask that you turn your attention to the  
11      next page, please. Oh, actually, you can -- you can put it  
12      away for now. I need to ask you other questions before we come  
13      back to it.

14              MS. SAADE: I would I guess move to admit pages 2 and 3 of  
15      the Jencks statement for purposes of impeachment.

16              MS. GARFIELD: Objection.

17              JUDGE GIANNOPOULOS: It's already in the record. You've  
18      read it in the record. Is there anything else that you want to  
19      impeach her on that?

20              MS. SAADE: That's fine, Your Honor.

21              JUDGE GIANNOPOULOS: Okay, it's in the record. She read  
22      it accurately into the record.

23      Q       BY MS. SAADE: Ms. Ybarra, when you were talking about  
24      handing items out to customers in the store, you gave some  
25      examples of handing a customer some stickers?

1 A Yes.

2 Q And there were holiday-themed stickers?

3 A I believe so.

4 Q And isn't it true that those stickers are kept at the bar?

5 A No, they were kept off -- at the hand-off plane.

6 Q And the hand-off plane is what?

7 JUDGE GIANNOPOULOS: At the -- say that again, I'm sorry.

8 THE WITNESS: Sorry, the hand-off plane, where we -- we  
9 hand customers their drinks.

10 JUDGE GIANNOPOULOS: Okay.

11 Q BY MS. SAADE: So it's there in the -- in the store itself  
12 where you're serving customers?

13 A Yes.

14 Q So to hand a customer a sticker for their child, you did  
15 not have to leave the floor to go get the item?

16 A No.

17 Q And you -- the other example that you gave was giving a  
18 customer -- a regular customer a \$2 bill out of your tip jar?

19 A Not out of the tip jar.

20 Q So you brought the \$2 bill from home to give to the  
21 customer?

22 A Correct.

23 Q And -- and you -- and your testimony is you don't recall  
24 ever doing that in front of your store manager, Pam, correct?

25 A Not in particular.



1 Q Did Pam ever say anything to indicate to you that she was  
2 aware that you were engaged in that process?

3 A No. There were shift supervisors who participated,  
4 though.

5 Q You -- the third example you gave was -- were resource  
6 pamphlets that are handed out by individuals at the store to  
7 customers or other third party visitors?

8 A To customers, yes.

9 JUDGE GIANNOPOULOS: When -- when you said shift  
10 supervisors participated, you mean would give \$2 bills, I  
11 suppose?

12 THE WITNESS: Yes.

13 JUDGE GIANNOPOULOS: Sorry, go ahead.

14 Q BY MS. SAADE: Shift supervisors are exempt workers,  
15 correct? They're paid hour -- they're paid hour -- they're  
16 nonexempt workers. They're paid hourly, correct?

17 A They're part of the union.

18 Q They're part of the union?

19 JUDGE GIANNOPOULOS: They're part of the union? Yeah,  
20 okay, all right, go ahead, next question. I didn't meant to  
21 interrupt. You were talking on the resource pamphlets.

22 MS. SAADE: That's okay.

23 Q BY MS. SAADE: The resource pamphlets that you mentioned.  
24 You -- is it your understanding that those are company-  
25 authorized?

1 A My understanding is that my manager has said that I'm  
2 allowed to hand them out.

3 Q Do you -- do you have an understanding why that is?

4 A The social worker -- is -- that's -- that's kind of my  
5 understanding.

6 Q Isn't it true that -- that Starbucks helps fund that  
7 partnership with a nonprofit to hand out those community  
8 resources?

9 A I don't know.

10 Q Can you turn to your statement again at the last page,  
11 page 4? And on line 12, can you read that and 13 into the  
12 record?

13 A We also had -- "We also hand out resource cards, lists of  
14 places where people can go for" shower -- for "a shower or  
15 food. But those resource cards are things that management had  
16 approved or authorized us to hand out."

17 Q So they're informational materials?

18 A Yes.

19 Q And are they social services related?

20 A Yes.

21 Q They're not soliciting business for anyone?

22 A No.

23 Q And they're -- they're not a gift of a tangible item that  
24 someone can use?

25 A Is it -- is it not a tangible item that someone can use?

1 JUDGE GIANNOPOULOS: That -- that's fine, next ques --  
2 next question. I mean, come on. Next question.

3 What was it -- when -- when -- when this woman came in to  
4 get -- and you gave her a pin, you may have been -- we talked  
5 about this earlier. Do you remember what time it was?

6 THE WITNESS: Jen usually came in in, like, late morning  
7 or afternoon.

8 JUDGE GIANNOPOULOS: Okay. And do you remember what --  
9 you said you were doing service at the time?

10 THE WITNESS: Customer service.

11 JUDGE GIANNOPOULOS: Do you remember if she had placed an  
12 order on an app or if she had come in and paid for it, made an  
13 order at the bar?

14 THE WITNESS: I believe she was placing her order at the  
15 register at the time.

16 JUDGE GIANNOPOULOS: Okay. And what was it like? Was it  
17 busy, or was it slow?

18 THE WITNESS: It was slow.

19 JUDGE GIANNOPOULOS: Okay. Anyone else there that you can  
20 remember?

21 THE WITNESS: Not that I can remember.

22 JUDGE GIANNOPOULOS: All right.

23 Next question.

24 Q BY MS. SAADE: Had you -- Jen, the -- Jen, the customer,  
25 was familiar to you?

- 1     A     Yes.
- 2     Q     And she was considered a regular?
- 3     A     Yes.
- 4     Q     And did you know where she worked?
- 5     A     Yes.
- 6     Q     And it -- and that location was nearby?
- 7     A     Yes.
- 8     Q     Where was it?
- 9     A     Phoenix Cards and Com -- Games (sic).
- 10    Q     So right next door?
- 11    A     Two doors down, but yes.
- 12    Q     And is -- is -- was there anything that prevented you from
- 13    giving Jen the button outside of work?
- 14    A     Not physically.
- 15           MS. GARFIELD:  Objection.
- 16           JUDGE GIANNOPOULOS:  No, she said not physically.  So I --
- 17    I'm assuming the answer is no.
- 18           THE WITNESS:  No.
- 19           JUDGE GIANNOPOULOS:  Yeah, all right.
- 20    Q     BY MS. SAADE:  Have you had an -- before January of 2022,
- 21    when you gave her the button in the store, had you ever run
- 22    into -- run into her on the street or at the comic bookstore?
- 23    A     I may have seen her, but I didn't stop to talk or
- 24    anything, I don't think.
- 25    Q     But you knew where to find her if you wanted to reach her?

1 A Probably.

2 Q When Pam --

3 JUDGE GIANNOPOULOS: Are we -- are we done with the  
4 affidavit?

5 MS. SAADE: Yes, thank you.

6 JUDGE GIANNOPOULOS: All right, so we can -- you can hand  
7 that back and -- well just hand it to me, ma'am, and I'll just  
8 put them both of them -- all right.

9 Go ahead.

10 Q BY MS. SAADE: When Pam returned to -- to -- after you had  
11 the conversation with Pam, did you contact partner relations to  
12 ask for any clarification on what the company's policy was --

13 MS. GARFIELD: Objection.

14 Q BY MS. SAADE: -- regarding handing out buttons?

15 MS. GARFIELD: Objection.

16 JUDGE GIANNOPOULOS: This is about handing out buttons, so  
17 what is the objection?

18 MS. GARFIELD: The objection is relevance.

19 JUDGE GIANNOPOULOS: All right. Overruled.

20 Did you ask anyone else at Starbucks for clarification  
21 about buttons?

22 THE WITNESS: No.

23 JUDGE GIANNOPOULOS: All right, that's it. We're not --  
24 don't go into any more about clarifications. I don't want to  
25 spend 20 minutes on fliers and things like that; she said no.

1 Next question.

2 Let me ask you a question. Do you know who Johnna --  
3 Joann -- or Johnna Turvin is?

4 THE WITNESS: Johnna Turvin, yes.

5 JUDGE GIANNOPOULOS: Okay. Was she present during any of  
6 these interactions?

7 THE WITNESS: No.

8 JUDGE GIANNOPOULOS: All right, next question.

9 Q BY MS. SAADE: Was there any other occasion where you  
10 brought the bag of buttons out to the floor and handed them out  
11 to customers?

12 MS. GARFIELD: Objection.

13 A Not to a customer, but I did bring a bag of pins to a  
14 coworker from another store.

15 Q BY MS. SAADE: While you were on -- on your shift -- work  
16 shift?

17 A I was on a 10-minute break.

18 Q And was that in the presence of your manager?

19 A It was.

20 Q And did the conversation your manager have with you occur  
21 after this other incident?

22 A Sorry, specific --

23 JUDGE GIANNOPOULOS: After the incident with Pam. Well  
24 first of all, did the manager have any conversation with you?

25 THE WITNESS: Yes.

1 JUDGE GIANNOPOULOS: All right, and was that before or  
2 after the incident with Pam?

3 THE WITNESS: The incident with Jen was before the  
4 incident where I handed a pin to -- to a coworker on my 10-  
5 minute break.

6 JUDGE GIANNOPOULOS: I'm sorry. I said Pam. I meant Jen,  
7 you're right. Okay.

8 Go ahead.

9 Q BY MS. SAADE: Did you say anything to -- to your manager  
10 to indicate to her that that was another Starbucks employee  
11 that you were handing the butt -- the bag of buttons to?

12 A No.

13 Q So the person entered the store as if they were a  
14 customer, and you met them and handed them --

15 JUDGE GIANNOPOULOS: The person other than Jen?

16 MS. SAADE: Yes.

17 A They were -- yes.

18 JUDGE GIANNOPOULOS: But you knew this person?

19 THE WITNESS: Yes.

20 JUDGE GIANNOPOULOS: And you knew they worked at  
21 Starbucks?

22 THE WITNESS: Yes.

23 JUDGE GIANNOPOULOS: And you gave them a button or a bag  
24 of buttons?

25 THE WITNESS: I gave them a bag of buttons; they were

1 organizing their own store.

2 JUDGE GIANNOPOULOS: Oh, okay. And your manager said  
3 something to you?

4 THE WITNESS: My manager followed me into the back when I  
5 went back to sit down for my 10 and asked me why she had to  
6 have this conversation with me again. To which I responded,  
7 I'm on my 10-minute break; what are you talking about? And she  
8 told me that I was still on company time.

9 Q BY MS. SAADE: Did you say anything to indicate to your  
10 manager that that was a Starbucks employee and not a customer?

11 A No.

12 Q And was that person wearing any -- any sort of Starbucks  
13 logo material to indicate that they were an employee?

14 A I don't remember.

15 MS. SAADE: If I could just have a minute to check my  
16 notes, Your Honor.

17 JUDGE GIANNOPOULOS: Sure.

18 Q BY MS. SAADE: Other than your written affidavit,  
19 confidential witness affidavit that we just went over, did you  
20 provide anything in writing to Ms. Garfield or anyone else at  
21 the NLRB that is a narrative description of what happened  
22 with -- in either the conversation with Halley Hager or the  
23 conversation with Pam Maris -- Mariscal?

24 A The screenshot of the notes, and I believe that that's it.

25 Q Did you send them any sort of narrative email describing





1     what had occurred at the store?

2     A     I don't believe so.

3           MS. SAADE: I don't have any other questions, Your Honor,  
4     thank you.

5           JUDGE GIANNOPOULOS: All right, thank you.

6           Oh actually, I should ask, any redirect, General Counsel?

7           MS. GARFIELD: Yes, Your Honor. Just a minute. Your  
8     Honor, I'm going to print something.

9           (Counsel confer)

10          JUDGE GIANNOPOULOS: Okay, so you're asking for a break?

11          MS. GARFIELD: Yeah, it's right here. We actually  
12     brought -- sorry, we brought a --

13          JUDGE GIANNOPOULOS: All right.

14          MS. GARFIELD: -- mobile printer.

15          JUDGE GIANNOPOULOS: While you're doing that, let me ask  
16     you, do you have any redirect?

17          MS. GARFIELD: No.

18          JUDGE GIANNOPOULOS: All right, so go ahead. Print what  
19     you need to print. And meanwhile, can you ask questions at the  
20     same time?

21          MS. GARFIELD: I think so, as long as I can speak over the  
22     printer.

23          JUDGE GIANNOPOULOS: All right. And just because I ask if  
24     you have redirect doesn't mean you have to do it.

25          Same with rebuttal.

1 But anyway, I'm just teasing. Go ahead.

2 MS. GARFIELD: Okay. May I, Your Honor?

3 JUDGE GIANNOPOULOS: Of course you can.

4 MS. GARFIELD: Okay, Ms. Ybarra, I -- I promise not to be  
5 too long, I promise.

6 **REDIRECT EXAMINATION**

7 Q BY MS. GARFIELD: You testified on cross-examination that  
8 you gave a coworker a -- a bag of buttons, and then -- when you  
9 were on your 10-minute break, and then Pam -- Pam Mariscal told  
10 you you were not permitted to do that; is that correct? Was  
11 that your testimony?

12 A That's correct.

13 Q Do you remember the date that conversation occurred?  
14 About what --

15 A I think it was late May.

16 Q Late May?

17 A Yeah, I think so.

18 Q Okay.

19 A Late May or early June.

20 Q Okay. Did -- did miss -- did you tell Ms. -- Ms. Mariscal  
21 that you were on a 10-minute break?

22 A Yes.

23 Q Okay. Did she -- did -- to the best of your recollection,  
24 did she have any reason to believe that the person to whom you  
25 gave the bag of buttons was a customer?

1 A Other than --

2 MS. SAADE: Objection.

3 JUDGE GIANNOPOULOS: I mean, yeah, sustained. Sustained.

4 What -- when the person walked in, what did they look  
5 like?

6 THE WITNESS: They --

7 JUDGE GIANNOPOULOS: Meaning, were they wearing any kind  
8 of Starbucks-affiliated shirts?

9 THE WITNESS: Not that I remember.

10 JUDGE GIANNOPOULOS: All right. Is this somebody who  
11 would regularly come into your store?

12 THE WITNESS: No.

13 JUDGE GIANNOPOULOS: Was it someone that had worked at  
14 your store before?

15 THE WITNESS: No.

16 JUDGE GIANNOPOULOS: All right. All right. Was it  
17 somebody that you know to have worked at a store where Ms.  
18 Mariscal worked?

19 THE WITNESS: Not as far as I know.

20 JUDGE GIANNOPOULOS: All right, next question.

21 MS. SAADE: Okay, thank you.

22 Q BY MS. SAADE: To the -- to you -- let me ask you this.  
23 To your knowledge, does Justin Ferguson still work for  
24 Starbucks?

25 A No.

1 Q So he doesn't, or he does?

2 A He does not work for Starbucks.

3 Q Do you know when he left Starbucks?

4 A Oh --

5 MS. SAADE: Objection. Relevance.

6 JUDGE GIANNOPOULOS: What is the relevance?

7 MS. GARFIELD: Well, I think the relevance is that during  
8 cross-examination, there was discussion about cross -- about  
9 Justin Ferguson, whether --

10 JUDGE GIANNOPOULOS: All right, he -- okay, he doesn't  
11 work at Starbucks anymore.

12 But at the time, he did?

13 THE WITNESS: Yes.

14 JUDGE GIANNOPOULOS: Okay. And his leaving, was it -- is  
15 it recent? Was it, like, yesterday he quit?

16 THE WITNESS: No, he quit last year, I -- wait, no, it  
17 would have been this year. It would have been March or  
18 February.

19 JUDGE GIANNOPOULOS: All right.

20 THE WITNESS: Of this year.

21 JUDGE GIANNOPOULOS: Let -- let's wait for the printer to  
22 stop printing.

23 MS. GARFIELD: Sorry. It's going to be two pages. I'm  
24 sorry.

25 JUDGE GIANNOPOULOS: All right, go ahead, next question.

1 Q BY MS. GARFIELD: Okay, just -- yeah, just qui -- just  
2 quickly, do you have GC-4 in front of you? That's a copy of  
3 your subpoena for the R case proceedings.

4 A Thank you. I do.

5 Q Okay. And the subpoena is -- it's dated -- it's dated  
6 December 22nd, 2021; is that correct?

7 A That's correct.

8 Q Okay. Do you have any independent recollection of what  
9 day you received this subpoena from the Union?

10 A I -- I don't.

11 MS. GARFIELD: Okay.

12 Showing you what has been marked as GC -- I believe next  
13 in line is GC-6?

14 JUDGE GIANNOPOULOS: Yes.

15 MS. GARFIELD: Sorry about that.

16 **(General Counsel Exhibit Number 6 Marked for Identification)**

17 Q BY MS. GARFIELD: I'd like you, Ms. Ybarra, to, you know,  
18 look at -- take your time looking at GC-6 and tell me if that  
19 docu -- well first of all, take your time looking at it. And  
20 secondly, once you've looked at it --

21 JUDGE GIANNOPOULOS: And I think she's drawing your  
22 attention to the bottom email, ma'am.

23 MS. GARFIELD: Yes.

24 Q BY MS. GARFIELD: Tell me the date of that email.

25 A January 10th.

1 Q Okay, and who is it to?

2 A Me.

3 Q Okay. And what is the -- does that refresh your  
4 recollection when you received the subpoena to testify in the R  
5 case?

6 JUDGE GIANNOPOULOS: All right, forget about your  
7 recollection. Is this the email that the subpoena was attached  
8 to?

9 THE WITNESS: Yes, it is.

10 JUDGE GIANNOPOULOS: All right, and what do you want to do  
11 with GC-6, General Counsel?

12 MS. GARFIELD: I want to move for its admission.

13 JUDGE GIANNOPOULOS: All right, any objections from the  
14 Union?

15 MS. MULTHAUP: No.

16 JUDGE GIANNOPOULOS: From the Respondent?

17 MS. SAADE: No.

18 JUDGE GIANNOPOULOS: All right, GC-6 is admitted.

19 **(General Counsel Exhibit Number 6 Received into Evidence)**

20 MS. GARFIELD: Thank you.

21 JUDGE GIANNOPOULOS: And it -- where -- the attachment  
22 that has PDF, that was the actual subpoena that's in GC-4,  
23 ma'am?

24 THE WITNESS: Yes.

25 JUDGE GIANNOPOULOS: Okay.

1 MS. SAADE: Well Your Honor, I would -- I guess I would  
2 ask that instead of just an incomplete version, I would like to  
3 see the attachment. I mean, I don't have -- I didn't realize  
4 that there was an attachment to the email.

5 JUDGE GIANNOPOULOS: Right, she just testified it was the  
6 subpoena.

7 MS. GARFIELD: Yeah, that was the attachment.

8 JUDGE GIANNOPOULOS: Which is GC-4.

9 MS. GARFIELD: It's the same number, GC-4.

10 MS. SAADE: The attachment PDF or the subpoena number?  
11 Okay, thank you.

12 JUDGE GIANNOPOULOS: All right, next question. So GC-6 is  
13 admitted.

14 Q BY MS. GARFIELD: And to the best of your recollection,  
15 was -- was -- when you received it from the Union by email  
16 attachment, was that the first time you had been subpoenaed --  
17 the first time you had received the subpoena?

18 A I believe so.

19 MS. GARFIELD: I have no further questions, Your Honor.

20 JUDGE GIANNOPOULOS: All right, from the Union? I'll ask  
21 you again -- and I'm asking you -- I've asked you the first  
22 time, but I'm asking you again.

23 MS. MULTHAUP: No further questions.

24 JUDGE GIANNOPOULOS: All right, from the Respondent?

25 MS. SAADE: Yes, Your Honor. Thank you.

1 JUDGE GIANNOPOULOS: Go ahead.

2 **RECROSS-EXAMINATION**

3 Q BY MS. SAADE: Ms. Ybarra, prior to getting that -- the  
4 email copy of the subpoena, had you been put on notice that you  
5 would be re -- you would be asked to testify at the re --  
6 representation hearing?

7 A I believe so. I knew there was going to be a hearing, and  
8 I knew that I was going to be testifying.

9 Q And before you received the actual emailed copy of the  
10 subpoena, you knew a subpoena was coming?

11 A Yes.

12 MS. SAADE: No further questions, Your Honor.

13 JUDGE GIANNOPOULOS: All right, Ms. Ybarra, you can step  
14 down. Thank you very much, ma'am. Again, there's a  
15 sequestration order in place. Don't talk about your testimony  
16 with anyone. And you can take your seat back at counsel's  
17 table as a -- a -- the party representative.

18 All right, let's go off the record for a second first.

19 (Off the record at 3:36 p.m.).

20 MS. GARFIELD: General Counsel rests.

21 JUDGE GIANNOPOULOS: All right, the General Counsel rests.

22 Ms. Mul -- Multhaup, the Union, does the Union have any  
23 evidence they wish to present?

24 MS. MULTHAUP: Not for the time, no.

25 JUDGE GIANNOPOULOS: Okay, so the Union has rested, in



1 essence. There is nothing they want to present?

2 MS. MULTHAUP: Correct.

3 JUDGE GIANNOPOULOS: All right. So for the Respondent?

4 MS. SAADE: Before we present witnesses, Your Honor, I  
5 would ask that you consider a motion to dismiss or a motion for  
6 a directed verdict on the GC's case. And I'd like to give you  
7 a short argument on that.

8 JUDGE GIANNOPOULOS: Okay, go ahead.

9 MS. SAADE: In their complaint, Your Honor, they indicate  
10 they allege that there were threats, coercion, and/or  
11 interference by both Halley Hager and Pam Mari -- Mari --  
12 Mariscal. None of the testimony that's been provided today  
13 indicates that -- that Ms. Ybarra was actually disciplined in  
14 any way, shape, or form, for any of her actions or activity,  
15 nor was there an actual threat of discipline. Instead, in both  
16 conversations, she was advised -- the testimony is that she was  
17 simply advised that the policies were what they were and that  
18 she needed to abide by those policies.

19 There's -- if you look at the language in the affidavit,  
20 there's -- there's no threat of -- or I'm sorry, if you look in  
21 the -- the -- the note that Ms. Ybarra wrote that has -- she's  
22 testified under oath is the most accurate capture of that  
23 conversation -- there is nothing in that -- in her  
24 handwritten -- or her typed notes that indicate that Halley  
25 Hager made a threat of any sort of discipline.

1           Instead, it simply just tells her that following corporate  
2   responsibility, a subpoena doesn't remove your responsibility  
3   to find coverage for your shift. There is nothing in there  
4   that indicates that she is going to be facing discipline if she  
5   fails to cover her shift, nor is there any indication that  
6   she's going to have discipline if she doesn't appear for her  
7   shift due to a lawfully issued subpoena.

8           On the second topic of the buttons, there's Ms. -- Ms.  
9   Ybarra has testified to no threat by -- by Ms. Mariscal, no  
10   indication that she's been disciplined or threatened with  
11   discipline or coerced in any way not to engage in any sort of  
12   lawful protected activity. As Ms. Ybarra testified, she was  
13   giving out buttons and pins to her coworkers, and the buttons  
14   were out and available in a -- in a break space available to  
15   her colleagues without any mention by her manager that she  
16   cannot do that.

17           JUDGE GIANNOPOULOS: Okay. I understand your argument. I  
18   am going to deny your motion. As you know, at times, the Board  
19   and the courts find various statements to be violations of  
20   8(a)(1) or threats, even though there's no explicit threats  
21   said in a certain statement or policy. I'm not saying that's  
22   what happened here, but I'm just saying is that that does  
23   occur, and I think that my ruling would -- in this case would  
24   be benefitted by both your, the Union, and the General  
25   Counsel's briefing with respect to the relevant case law and to

1 the facts.

2 So I just think it's premature for me to make any kind of  
3 ruling. So on that basis, I'm going to deny your motion. But  
4 I do look forward to everyone's briefs at some point.

5 MS. SAADE: Yeah, well, hopefully soon. Thank you, Your  
6 Honor.

7 JUDGE GIANNOPOULOS: Yeah, okay, thank you.

8 Let's go off the record, Bruce, while we just discuss  
9 logistics.

10 (Off the record at 3:40 p.m.)

11 JUDGE GIANNOPOULOS: All right, we're back on the record.  
12 Let the record reflect that the -- that the Respondent has  
13 returned Ms. Ybarra's affidavit to General Counsel.

14 And your first witness, Ms. Saade?

15 MS. SAADE: It'll be Mr. Lawrence.

16 JUDGE GIANNOPOULOS: Mr. Lawrence, welcome, sir. Come,  
17 take the witness stand. And welcome to the witness stand.  
18 You've been here for most of the hearing. I'm going to have  
19 you raise your right hand.

20 Whereupon,

21 **ROBERT LAWRENCE**

22 having been duly sworn, was called as a witness herein and was  
23 examined and testified as follows:

24 JUDGE GIANNOPOULOS: All right, please state your first  
25 and last name and spell it for the record.

1 THE WITNESS: Robert Lawrence, R-O-B-E-R-T,  
2 L-A-W-R-E-N-C-E. And I go by Rob (phonetic throughout).

3 MS. SAADE: Thank you, Mr. Lawrence.

4 **DIRECT EXAMINATION**

5 Q BY MS. SAADE: Are you currently employed?

6 A I am.

7 Q And who is your employer?

8 A Starbucks coffee company.

9 Q And what position do you hold?

10 A Partner resources manager.

11 Q And in a couple of sentences, can you please describe that  
12 position for us?

13 A Yeah. I work alongside a regional director to ensure that  
14 their team of district managers has the right knowledge skills  
15 and capabilities to achieve success and -- and deliver results  
16 pertaining to their goals.

17 Q And do you support a particular regional area or  
18 geographical area?

19 A Yes. Within the Pacific Northwest, I support two areas.  
20 One being the Metro Seattle area and the other being Southwest  
21 Washington.

22 Q So included in that Met -- Metro Seattle area, is that the  
23 Broadway -- does that include the Broadway and Denny store  
24 known as 304?

25 A Yes.



1 Q And is that a -- is that a -- a position and role that you  
2 held in January of 2022?

3 A Yes.

4 Q Is the Broadway Denny store a regular store location, I --  
5 I -- or can you explain to us what kind of store it is in  
6 comparison to other stores?

7 A Sure. It is what we would consider a core café store,  
8 which is a company-operated location. It does not have a  
9 drive-through. It is a -- a café where customers would come  
10 in, get their beverage, and -- and leave.

11 Q And core is just C-O-R-E?

12 A C-O-R-E, yes.

13 Q Thank you. In January of 2022, what positions generally  
14 worked at that store?

15 A Yeah, store manager, shift supervisors, and baristas.

16 Q And were there assistant store managers at that location?

17 A Not at that time.

18 Q So is the person in charge then the store manager?

19 A Yes.

20 Q And who does the store manager report to?

21 A A district manager.

22 Q And who was the store manager for the Broadway and Denny  
23 store in January of 2022?

24 A Pam Mariscal.

25 Q And who was the district manager she reported to?



1 A Johnna Turvin.

2 Q Thank you.

3 JUDGE GIANNOPOULOS: Again, Ms. Turvin reported to?

4 THE WITNESS: Nica Tovey, the regional director.

5 JUDGE GIANNOPOULOS: And that's who you work with --

6 THE WITNESS: Correct.

7 JUDGE GIANNOPOULOS: -- to ensure that they all have the  
8 resources they need?

9 THE WITNESS: Correct.

10 JUDGE GIANNOPOULOS: Okay, great, thank you.

11 MS. SAADE: Thank you.

12 Q BY MS. SAADE: For the different positions that work at  
13 Broadway and Denny, are there job descriptions?

14 A Yes.

15 Q And is -- is there a job description for the barista role?

16 A Yes.

17 Q I didn't mark your pages, but this will be Respondent's 8,  
18 I believe.

19 A Thank you.

20 Q I'd ask that you take a look at what's been marked as  
21 Respondent's 8, please, Mr. Lawrence, and tell me if you  
22 recognize the document.

23 A I do.

24 Q And what is it?

25 A It is a job description for a barista in one of our core

1 retail locations.

2 Q And so would -- would this job description cover the  
3 baristas that worked at the Broadway and Denny store in January  
4 of 2022?

5 A Yes.

6 Q In addition to the job description, are there other  
7 documents that put no -- the baristas working in that store on  
8 notice of what is expected of them when -- when they're  
9 working?

10 A Yes. We have what's referred to as an approach for every  
11 role in the store. So there would be a barista approach that  
12 outlines the duties and responsibilities of the barista role.

13 Q And would you -- could you be a little bit more specific  
14 of what -- what you mean by approach? Is it a -- a printed  
15 document or --

16 A It is. It is. It's available both in physical hard copy  
17 and also electronically and outlines, as I shared, the -- the  
18 duties and responsibilities. Essentially, what success would  
19 look like for a partner in that role.

20 Q And how can partners access the job description?

21 A The job description would be available at the time that a  
22 partner applies for the role. They also could ask for a copy  
23 at any point in time.

24 Q And is the approach -- the approach document also  
25 available to baristas when they're employed?

1 A Correct. It would be reviewed with a barista at the  
2 beginning of their time coming into the role and would be  
3 available at -- at any point in time.

4 Q And when you say it's available, how -- how is it  
5 accessible to them?

6 A There would be copies of it available in the store that we  
7 could provide to a partner. It's also available  
8 electronically.

9 Q In addition to the approach, is -- is there any other  
10 document that kind of guides partners on what is expected of  
11 them when they're on company time?

12 A There would be the training that -- that a partner would  
13 receive at the time that they are hired and go into a role.

14 Q Is there also, like, an employee handbook or a partner  
15 guide?

16 A Yes. Yes. There is a partner guide.

17 Q And how do baristas access that partner guide, or receive  
18 a copy of it?

19 A Yeah, a partner would receive a physical copy of the guide  
20 in a welcome kit when they first join the company. We also  
21 could get an additional hard copy at any point in time if  
22 anyone requested one, and it is available electronically.

23 MS. SAADE: So I am not going to number the pages because  
24 they're already numbered on this document, but I will mark this  
25 as Respondent's 9.



1       **(General Counsel Exhibit Number 9 Marked for Identification)**

2           MS. GARFIELD:   Didn't you put this in?

3           MS. SAADE:   That was the copy that we produced as part of  
4   our introduction.

5           MS. GARFIELD:   And it's -- this is the same?

6           MS. SAADE:   It is.   Although -- yes, it has the Bates  
7   numbers.   It doesn't have the stamps.   It's -- it -- it is the  
8   same.

9           JUDGE GIANNOPOULOS:   Okay.

10          MS. SAADE:   Here you go.   So this is GC-9.

11          JUDGE GIANNOPOULOS:   Oh.

12   Q       BY MS. SAADE:   Mr. Lawrence, would you please review that  
13   document and let me know if that is in accurate copy of the  
14   partner guide that was published on April 2020 -- or in April  
15   2020?

16   A       Yes.   Skimming through, it does appear accurate.

17          JUDGE GIANNOPOULOS:   All right, let's go back -- let's  
18   take a step back --

19          MS. SAADE:   Sure.

20          JUDGE GIANNOPOULOS:   -- to Respondent's 8.

21          MS. SAADE:   Yes.

22          JUDGE GIANNOPOULOS:   All right, did you want to move for  
23   admission of Respondent's 8?

24          MS. SAADE:   Oh yes, thank you.   I move to admit --

25          JUDGE GIANNOPOULOS:   Okay.

1 MS. SAADE: -- Respondent's 8.

2 MS. GARFIELD: I just have a voir dire for the witness,  
3 Your Honor.

4 JUDGE GIANNOPOULOS: On Respondent's 8?

5 MS. GARFIELD: Yes.

6 JUDGE GIANNOPOULOS: Okay, go ahead.

7 **VOIR DIRE EXAMINATION**

8 Q BY MS. GARFIELD: So you see Respondent's 8, Mr. Lawrence?

9 A Um-hum.

10 Q Barista core, correct.

11 A Yes.

12 Q Is this a standalone document, or is it part of a book of  
13 other document -- or documents?

14 A This would be a standalone file.

15 Q Standalone?

16 A Um-hum.

17 MS. GARFIELD: I have no objection, Your Honor.

18 JUDGE GIANNOPOULOS: All right.

19 How about from the Union?

20 MS. MULTHAUP: No objection.

21 JUDGE GIANNOPOULOS: All right, so Respondent's 8 is  
22 admitted.

23 **(Respondent Exhibit Number 8 Received into Evidence)**

24 MS. SAADE: Thank you.

25 JUDGE GIANNOPOULOS: All right, go ahead.

1 MS. SAADE: I'd like to present Respondent's **10**.

2 JUDGE GIANNOPOULOS: All right, let's -- are you going to  
3 continue questioning on 9?

4 MS. SAADE: I can.

5 JUDGE GIANNOPOULOS: Or are you going to move for  
6 admission?

7 MS. SAADE: Oh, I thought I did move for admission.

8 JUDGE GIANNOPOULOS: Of 9?

9 MS. SAADE: Okay, yes. I --

10 JUDGE GIANNOPOULOS: No, no, not of 9. Yes.

11 MS. SAADE: I move for admission.

12 JUDGE GIANNOPOULOS: Okay, so General Counsel,  
13 Respondent's 9, any objections?

14 MS. GARFIELD: No, Your Honor.

15 JUDGE GIANNOPOULOS: From the Union?

16 MS. MULTHAUP: No.

17 JUDGE GIANNOPOULOS: Okay, so Respondent's 9 is admitted.

18 **(Respondent Exhibit Number 9 Received into Evidence)**

19 JUDGE GIANNOPOULOS: All right.

20 MS. SAADE: Thank you. So it's Respondent's 10. We need  
21 one more copy for the court reporter? I think there's two  
22 copies in there.

23 Q BY MS. SAADE: Could you please review Respondent's 10,  
24 Mr. Lawrence, and let me know if you recognize it?

25 A I do, yes.

1 Q And what is it?

2 A It is the barista approach.

3 Q That's the other published document that you mentioned  
4 earlier as being a guideline to a barista on how to do their  
5 job?

6 A Correct.

7 Q And then it -- can you tell us the number of pages that --  
8 Exhibit 10 should be six pages total. If you can make sure  
9 that the copy you have includes six pages?

10 A Yes, it does.

11 Q And is -- is this a standalone document that's accessible  
12 to baristas that work at Starbucks?

13 A It is available as a -- part of a larger book that  
14 includes all of the approaches for the roles in the stores and  
15 can be accessible as an individual electronic PDF file as well.

16 Q Based on -- on your understanding and -- and familiarity  
17 with the section related to baristas, is this an accurate copy  
18 of the section related to baristas?

19 A Yes. Yes, it is.

20 MS. SAADE: I move to admit 10.

21 JUDGE GIANNOPOULOS: All right, any objections from the  
22 Union?

23 MS. MULTHAUP: No.

24 JUDGE GIANNOPOULOS: From the General Counsel?

25 MS. GARFIELD: I have a few voir dire questions, Your

1 Honor.

2 JUDGE GIANNOPOULOS: Okay.

3 **VOIR DIRE EXAMINATION**

4 Q BY MS. GARFIELD: Okay, so on your -- earlier, Mr.  
5 Lawrence, you testified -- I -- I recall you talking about this  
6 document called a barista approach.

7 A Correct.

8 Q And you said that one's the individual, one's the barista.  
9 And a barista em -- employee is also referred to as a partner,  
10 right? They -- they're all synonymous, correct?

11 A Yes. Any employee of Starbucks is referred to as a  
12 partner.

13 Q Okay. I just wanted that clarification. So the -- you  
14 testified that the barista or the employee, upon being given a  
15 job, will get the approach, this approach document, correct?

16 A As part of their training plan.

17 Q As part of their training. And the only thing I wanted to  
18 ask you about the document is, I understand that pages 3, 4,  
19 and 5 come under the bearing of what you testified earlier to,  
20 approach. But the first three pages, they come to operations  
21 activity. Do you consider that also as part of the approach  
22 document that you're talking to -- talking about?

23 A Yes. This is -- when you look at page 24 and what would  
24 be 25, it would open into something that you would read  
25 together.

1 JUDGE GIANNOPOULOS: So that would be --

2 A Which is the approach. So page 1 and page 2 of this  
3 document.

4 JUDGE GIANNOPOULOS: -- 1 and 2. I see.

5 THE WITNESS: Yes, this packet, correct.

6 Q BY MS. GARFIELD: See, I -- I'm okay -- Mr. Lawrence, I'm  
7 okay with the page that says barista approach, and it has the  
8 latte model. That's, I believe, page 4. And all the pages, 5  
9 and 6 after that. Looks okay to me. The approach that is at  
10 page -- I guess it's page 25, I -- I think. Yes, because  
11 that's also 25. I see it's -- it's -- at the top it says  
12 barista approach.

13 A The second page in the packet?

14 Q Yes. Yes. But I'm con -- are you -- this -- this page,  
15 which -- which appears page 26 and 24, nothing in that -- it  
16 doesn't -- it doesn't say anything about it being an approach.  
17 But it's -- is it -- is it -- was it included in this -- in  
18 this one -- this is one single document that you referred to as  
19 the approach, that baristas can have access to?

20 A Correct, yes.

21 Q And do they access it in the order of the documents of  
22 this exhibit presented by the Respondent's counsel, 10? Is  
23 that how it's in the -- that's how they would access it, in the  
24 same order that it's being handed to you to look at?

25 A If you open the electronic file and scroll through it,

1 yes.

2 MS. GARFIELD: Yes, okay, I have no objection.

3 JUDGE GIANNOPOULOS: Okay. So Respondent's 10 is  
4 admitted.

5 **(Respondent Exhibit Number 10 Received into Evidence)**

6 MS. SAADE: Thank you. And just because these were not  
7 stapled, like, it -- may I for the record -- Your Honor, just  
8 to make sure that it -- it should be pages 24, 25, 26, 27. And  
9 then there's -- you cannot see the page numbers, but you can  
10 tell that it's a -- a -- like, a -- a survey-type thing. You  
11 know, a scale on the two -- last two pages.

12 JUDGE GIANNOPOULOS: Just give me one sec, so --

13 MS. SAADE: Where people can rate themselves.

14 JUDGE GIANNOPOULOS: 27 corresponds with page 4. Page 5  
15 is unnumbered, and it says barista, and it has some sort of,  
16 you know, from L to A. It starts with -- right underneath  
17 barista, that first sentence is really the second. Ratings, I  
18 create a culture of warmth. And then the next page 20 -- is  
19 page 6. The first sentence, I use barista pattern. Yep.

20 MS. SAADE: Yes.

21 JUDGE GIANNOPOULOS: Okay.

22 MS. SAADE: Thank you. And I will work with the court  
23 reporter and make sure this copy is correct.

24 Q BY MS. SAADE: Now contained within the partner guide, which  
25 is Respondent's Exhibit 9, are there policies -- is there a

1 policy in the partner guide that sets out what the company's  
2 attendance and po -- punctuality policy is?

3 A Yes.

4 JUDGE GIANNOPOULOS: But why don't you draw his  
5 attention --

6 MS. SAADE: Yes.

7 JUDGE GIANNOPOULOS: -- to a page number, okay?

8 MS. SAADE: Of course.

9 Q BY MS. SAADE: Please turn I -- the -- the -- our exhibit  
10 numbering is not there, but if you turn to --

11 JUDGE GIANNOPOULOS: Yeah. The -- the numbering is -- I  
12 think it's good enough. Go ahead. What's the page number on  
13 the bottom? The actual guide number?

14 MS. SAADE: Yes. And I gave away my marked copy. I  
15 apologize. So it's -- it is -- oh, my goodness. May I have a  
16 moment, Your Honor?

17 JUDGE GIANNOPOULOS: Absolutely.

18 MS. SAADE: I apologize. I -- oh, here it is. I don't --  
19 it's page 27 of the guide.

20 JUDGE GIANNOPOULOS: All right.

21 And just let me know, sir, when you got -- when you're  
22 there.

23 THE WITNESS: Yes, I'm there.

24 JUDGE GIANNOPOULOS: Okay.

25 Go ahead.



1 MS. SAADE: All right.

2 Q BY MS. SAADE: Can you please review page 27 and advise if  
3 that is an accurate cop -- copy of the company's attendance and  
4 punctuality policy?

5 A Yes, it is.

6 Q And is it also known by an -- another phrase, do peo -- do  
7 people internally at Starbucks refer to it as the kind of the  
8 "no call/no show" policy as well?

9 A That would be correct, yes.

10 Q And what is the purpose of this policy in -- in your  
11 words? If you can summarize it for us, please.

12 A Yeah. That operating our business is dependent on having  
13 reliable attendance. And so this is a outline of the  
14 expectations that all of our partners working in a store would  
15 have in terms of reporting for their scheduled shifts and does  
16 outline responsibility for finding a substitute any time there  
17 is planned time in advance that they know that they'll be  
18 unable to attend.

19 Q Now, is the attendance and punctuality policy intended to  
20 cover situations where someone has an emergency and they're not  
21 able to give advance notice of their expected absence?

22 A Yes, it does call out -- it differentiates both planned  
23 time where you have advance notice that you know you'll be  
24 unable to attend your shift. And it does also talk about what  
25 to do in the event of an unplanned absence, such as a sudden

1 onset of illness or injury or emergency.

2 Q But the -- so the key thing, though, is provide as much  
3 notice as you can, correct?

4 A Correct. Yes.

5 Q And is there anything on -- in the written policy that  
6 indicates that if someone has an excusable absence that they  
7 would be disciplined for the excusable absence?

8 A No.

9 Q There's -- is it true, then, that the expectation is  
10 simply to let people know and that's the purpose of this  
11 policy?

12 A Correct.

13 Q Does the company have a policy related to jury -- jury  
14 service or responding to a subpoena?

15 A Yes.

16 Q And is it in the partner guide?

17 A Yes.

18 MS. SAADE: And I apologize, Your Honor. I got thrown off  
19 because I don't have the little inserts. Now I'm working from  
20 the -- the main document, so just a moment, please.

21 JUDGE GIANNOPOULOS: That's okay. Not a problem. The  
22 inserts might have page numbers on it as well.

23 Q BY MS. SAADE: If you could please turn to 55.

24 A Okay.

25 Q And please take a moment to review page 55 of the partner

1     guide, which -- and let me know if -- if you find the policy on  
2     that page.

3     A     Correct.  Yes, I do.

4     Q     And in your -- can you summarize for us the purpose of  
5     this policy?

6     A     Yeah.  It is to outline how we would accommodate any  
7     schedule requests for jury duty or a court subpoena.

8     Q     And that's the section there in the middle titled "Jury  
9     and Witness Duty"?

10    A     Correct.

11    Q     So is it your understanding, based on your -- your role at  
12    Starbucks that the company does have a process to allow people  
13    to have an excused absence if they're summonsed or -- for jury  
14    service or subpoenaed to testify in a legal proceeding?

15    A     Yes.

16    Q     Does -- does this policy advise partners how they should  
17    coordinate their attendance and scheduling?

18    A     Yes, it does.

19    Q     And -- and what's your understanding of what the policy  
20    advises?

21    A     That as soon as a partner is summoned or informed that  
22    they have either jury duty or a subpoena to appear, they should  
23    immediately notify their manager with as much notice as  
24    possible so that we can make arrangements to allow that space.

25    Q     And what -- what is the purpose behind making that ask?

1 A So that we can ensure that our store is able to continue  
2 to operate and still allow the partner or employee to attend to  
3 their service.

4 Q And is this unpaid or paid time off if somebody has to  
5 serve as -- on a jury or attend a legal proceeding?

6 A There -- there is jury pay that -- that is available for  
7 partners who are serving on jury duty. That is available.

8 Q And how does someone access that?

9 A They would inform their manager and it would be inputted  
10 with their -- their pay submission for the week.

11 Q And that's if they're missing scheduled work time to  
12 attend a hearing or at a jury?

13 A For jury duty, yes.

14 Q Yes. And will they get it if they don't give advanced  
15 notice ahead of time?

16 A Yes. As long as they inform their manager that -- that  
17 they are serving jury duty, we can input that on their -- their  
18 paycheck.

19 Q And are they required to give some proof of service?  
20 Jury service.

21 A We do -- I am not sure. I'd have to check.

22 Q That's something that partner resources hand -- or --

23 A It is --

24 Q -- partner --

25 A -- it is something that --



1 Q -- or partner relations handles?

2 A Yes.

3 Q The Partner Resource Support Center?

4 A The Partner Resource Support Center, yes.

5 Q And can you describe what that is?

6 A Yeah. That is a call center that is available to all of  
7 our partners to call and ask clarifying questions around any of  
8 our policies or procedures or to share any concerns that they  
9 may have with their manager.

10 Q And it's your understanding that that is a -- is -- is it  
11 your understanding that this policy has been in place for some  
12 time?

13 A Yes.

14 Q And so this partner guide is dated April 2020. Is -- is  
15 it your understanding that this jury and witness policy has  
16 been in place since then?

17 A Yes, and beyond.

18 Q Do you have any reason to believe that the partner guide  
19 policies that we just touched upon, the attendance and  
20 punctuality or the -- the attendance for jury or witness duty  
21 wasn't applicable to the Broadway and Denny store in January of  
22 2022?

23 A No.

24 Q I'd asked that you take a look at page 31 of the partner  
25 guide, please. At the top of the page, do you see the

1 paragraph that begins pins?

2 A Yes.

3 Q Can you take a moment to read that to yourself and then  
4 let me know if you have time for a question.

5 A Okay.

6 Q Is that -- is that paragraph there at the top of page 31  
7 and an accurate summary of what the company's policy related to  
8 partners' ability to wear a pin at work?

9 A Yes.

10 Q Or a button?

11 A Yes.

12 Q And do you have any reason to believe that management at  
13 the Broadway and Denny's store in January of 2022 was not  
14 allowing partners to wear a pin on their apron ever?

15 MS. GARFIELD: Objection.

16 JUDGE GIANNOPOULOS: On what basis?

17 MS. GARFIELD: Calls for speculation.

18 JUDGE GIANNOPOULOS: Well, he was a -- I'd say, a high-  
19 ranking official, so I think that if he actually knows, he's  
20 not speculating.

21 I -- I -- I characterize him as a high-ranking official,  
22 at least in your region -- at least in the region that you're  
23 overseeing.

24 MS. SAADE: And he supports that store, Your Honor.

25 JUDGE GIANNOPOULOS: Yeah. No, it's overruled. Yeah.



1 A Could you ask the question again?

2 Q BY MS. SAADE: Sure. Do you have any reason to believe  
3 that the store manager at the Broadway and Denny store wasn't  
4 allowing partners to wear a pin on their apron while --

5 JUDGE GIANNOPOULOS: I think that was a little different  
6 than the original question. That's --

7 MS. SAADE: Well, it's hard for me to recall the exact  
8 words --

9 JUDGE GIANNOPOULOS: That's all right.

10 MS. SAADE: -- I use. I'm happy to have the --

11 JUDGE GIANNOPOULOS: Does this --

12 MS. SAADE: -- reporter --

13 JUDGE GIANNOPOULOS: -- well, does -- does this paragraph  
14 accurately represent what the policy was at all of the stores  
15 that you oversee -- oversee including the Broadway and Denny  
16 store with respect to wearing pins?

17 THE WITNESS: It does.

18 JUDGE GIANNOPOULOS: Yeah. Right.

19 MS. SAADE: Thank you.

20 Q BY MS. SAADE: How long have you provided support to the  
21 Broadway and Denny store?

22 A A little bit over a year.

23 Q And how long have you worked for Starbucks?

24 A Seven-and-a-half years.

25 Q And other than your current role, what other positions

1 have you held?

2 A Sure. I've held the position of a store manager and I  
3 have held several positions within our partner resources or HR  
4 organization from a coordinator to an associate to a senior  
5 associate and now my current manager role.

6 Q During the approximate year or so that you've been  
7 supporting the Broadway and Denny store, how much of that time  
8 have you worked with Pam Mariscal?

9 A She would have been in a role that entire time.

10 Q During that period of time have -- have you received any  
11 concerns or complaints from any partners at that store that Pam  
12 was not giving people time off to attend either jury service or  
13 attend a hearing --

14 A Not --

15 Q -- as a witness?

16 A -- not that I'm aware of.

17 Q And during that period of time that you've been supporting  
18 that store, have -- have you heard -- have received a concern  
19 from any partner or heard of any partner concern that indicated  
20 that Pam Mariscal had threatened any discipline or termination  
21 of a partner if they wore a pin to work?

22 A No.

23 Q Also on page 31, at the bottom of the page there is a  
24 section there titled "Gifts and Entertainment", and it  
25 continues on to page 32. I'd ask that you review that and let



1 me know if -- if that -- that section of the partner guide  
2 accurately captures the policy related to gifts and  
3 entertainment at the Broadway and Denny store in January of  
4 2022.

5 A Yes.

6 Q Does the store also have a nonsolicitation policy?

7 A Yes.

8 Q And is it in the partner guide?

9 A Yes.

10 Q And could you turn to page 36 of the partner guide,  
11 please? And then review the section titled "Soliciting and  
12 Distributing Notices". And let me know if that accurately  
13 reflects what the policy was at Broadway and Denny in January  
14 of 2022.

15 A Yes, it does.

16 Q And I should probably ask you this question. I apologize  
17 for not doing so earlier. As far as you know, between April of  
18 2020 and January of 2022, was the partner guide republished?

19 A Not that I'm aware of.

20 Q So this version of April 2020 is the only version between  
21 April 2020 and January of 2022?

22 A To the best of my knowledge, yes.

23 Q Thank you. If a partner has a question about one of the  
24 particular policies in the partner guide, or if they don't like  
25 an -- an interaction that they've had with their store manager,

1 what resources are internally available to them at Starbucks?

2 A Sure. So there -- there is a poster that should be posted  
3 in -- in the back room of every store entitled "Make the Right  
4 Call". And it lists out the resources that a partner could  
5 contact if they're not able to talk to their store manager,  
6 their district manager, or their regional director, myself.  
7 Also the -- the partner resource -- or Partner Relations  
8 Contact Center that we talked about earlier, that is available,  
9 and our business ethics and compliance team.

10 Q And you should have a copy of Respondent's 6 in front of  
11 you. I would just ask if you can find it there and let us know  
12 if that is an accurate copy of the Make the Right Call document  
13 you just described.

14 A I do not believe I have that here.

15 Q Okay.

16 MS. SAADE: Does everyone else have a copy?

17 A Yes, this is accurate.

18 Q BY MS. SAADE: Is that information also available in  
19 another way to partners?

20 A I would say outside of posting it here, the information is  
21 available in the partner guide.

22 Q Now, the -- the -- the partner guide and the barista  
23 approach that we've gone over are baristas put on notice that  
24 they're expected to comply with those guidelines and policies  
25 that are outlined in those documents?

1 A Yes.

2 Q In addition to at the time of their hire, is there  
3 anything during the course of a barista's employment in which  
4 they're reminded of those policies and expectations?

5 A When a partner is on-boarded that they would be given the  
6 partner guide, which does have a page inside that is pulled  
7 out, an acknowledgment that the partner would sign saying that  
8 they received it. And then throughout the course of their  
9 training, it would be reviewed the -- through the approach.

10 Q And then if -- if a situation arises where a store manager  
11 believes that somebody has violated a policy or if they're not  
12 sure if certain conduct violates a policy, what kind of process  
13 or -- or resources are available to that store manager?

14 A Yeah. So their first resource would be what is referred  
15 to as our partner relations Virtual Coach, which is a document  
16 they can access electronically, almost a decision tree, if you  
17 will, that walks through many common violations of our policies  
18 and procedures. And then beyond that, they also could talk to  
19 their district manager, their regional director, they could  
20 contact the Partner Relations Support Center as well.

21 JUDGE GIANNOPOULOS: And that decision tree, that's  
22 electronic?

23 THE WITNESS: It is.

24 JUDGE GIANNOPOULOS: So do the stores -- do the managers  
25 of each store have access to some sort of like a computer?

1 THE WITNESS: They do.

2 JUDGE GIANNOPOULOS: And it has a electronic access --

3 THE WITNESS: Yes.

4 JUDGE GIANNOPOULOS: -- to the Starbucks policies? All  
5 right. Great. Thank you.

6 Q BY MS. SAADE: I'm showing you what's been marked as  
7 Respondent 11. It should be two pages. And I'd ask if you  
8 recognize these -- these screenshots.

9 A I do, yes.

10 Q Describe for us what they are, please.

11 A So the first page that I'm seeing represents the landing  
12 page that a store manager would see displayed when they pull up  
13 the partner relations Virtual Coach. The second page is an  
14 example of if you click down from the attendance and  
15 punctuality section. And then also at the bottom of that page  
16 shows an example of an outcome after a store manager would have  
17 answered several questions regarding a no call/no show.

18 Q So if I understand you correctly, the first page is the --  
19 is the home page for Virtual Coach.

20 A Correct.

21 Q And then if somebody hovers their mouse or cursor over the  
22 far left box labeled "Attendance and Punctuality" --

23 A Um-hum.

24 Q -- if they -- they hovered on that arrow, it brings a  
25 dropdown menu that's reflected on the next page?

1 A Correct.

2 Q And -- and these are the options, no call/no show, calling  
3 out, finding a substitute, irregular attendance, tardiness,  
4 walking off the shift, and health care provider notes?

5 A That is correct for that -- that section.

6 Q And then the next bubble there where it says, how many  
7 shifts did the partner miss, that's what shows up if you hover  
8 over no call/no show?

9 A Yes, it would -- it would take you through a series of --  
10 of questions. And then as you get through, this is one of the  
11 questions that you would ask.

12 Q And the -- and the question is, can you -- can you -- can  
13 you decipher what that next bubble below it says, what the  
14 abbreviations mean?

15 A Yeah. So the question asks how many shifts did the  
16 partner miss. And then the store manager would be given the  
17 choice to choose one -- one shift or two or more shifts. And  
18 if you choose one shift, then it would populate the results  
19 that you see at the very bottom.

20 Q And the result is that if somebody has one call of no  
21 call/no show, that's what NCNS stands for? So an unexcused  
22 absence where they haven't called out in advance?

23 A Correct. Without an emergency or medical situation, yes.

24 Q And -- and the recommended result is a final written  
25 warning, consistently recommended?



1 A Correct.

2 Q And so the -- what is the purpose of the Virtual Coach?  
3 Why do -- why do store managers -- why is it given it to store  
4 managers to access?

5 A Yeah. It -- so it -- it is to empower our store managers  
6 to address many common coaching opportunities within their  
7 store and ensure that we are delivering consistent  
8 recommendations across the company.

9 Q So it's intended to take kind of the arbitrariness out of  
10 the decision?

11 A Correct.

12 Q And is it also -- on -- on page 1 there under Partner  
13 Relations Virtual Coach, there's a couple of bullet points. Is  
14 that second bullet point there a fair summary of the purpose  
15 behind the Virtual Coach as well?

16 A Yes.

17 Q And so it's also intended to assess fairness and risk  
18 while balancing the needs of the business with partner  
19 interests?

20 A Yes.

21 MS. SAADE: I move to admit Respondent's 11.

22 JUDGE GIANNPOULOS: All right.

23 Any objections from the Union?

24 MS. GARFIELD: No objection.

25 JUDGE GIANNPOULOS: All right.



1 From the General Counsel?

2 MS. MULTHAUP: No, Judge.

3 JUDGE GIANNOPOULOS: All right. Respondent's 11 is  
4 admitted.

5 **(Respondent Exhibit Number 11 Received into Evidence)**

6 MS. SAADE: Thank you.

7 Q BY MS. SAADE: Based on your knowledge and experience of  
8 using Virtual Coach, is there anything in there in the dropdown  
9 menus where it asks the store manager if the partner is seeking  
10 time off to engage in union activity?

11 A No.

12 Q And through the -- the dropdown functions, is it your  
13 understanding that to get to this answer of the results of a  
14 final written warning, it has to be an unexcused absence?

15 A Correct.

16 Q And is it your understanding that jury service or witness  
17 testimony -- subpoenaed witness time is an excused absence as  
18 long as the company is put on notice about that --

19 A Correct --

20 Q -- purpose? And why is advanced notice of an absence for  
21 something like that important to Starbucks?

22 A Because it would allow us to ensure that we have the right  
23 number of partners working a shift to serve our customers.

24 Q And you were supporting the Broadway and Denny store in  
25 January of 2022. What was the staffing situation like for that

1 store at that time? Were there any challenges or -- or were  
2 you overstaffed?

3 A I am not sure that specific response for that time.

4 Q Does partner resources help and support managers in  
5 helping them adequately staff their store?

6 A We have a -- a talent acquisition or a recruiting team  
7 that works with the district managers and -- and to support  
8 staffing our stores.

9 Q When you worked as a store manager or --

10 A Um-hum.

11 Q -- when you have worked the floor at a store, tell me from  
12 your personal experience how having someone call out or not --  
13 not show for their scheduled shift -- how does that impact the  
14 operations?

15 A Yeah, it would -- it would have an impact on our ability  
16 to serve the customers that are coming in. We schedule enough  
17 partners for each shift to meet the forecasted needs of  
18 customers who we anticipate coming through the door. And so if  
19 we are short a person, the rest of the partners within that  
20 store would have to absorb the -- the work that had been  
21 assigned or planned for them.

22 Q I mean, Starbucks is a big company. There's many  
23 locations in metro Seattle. Why is it -- why -- why is there  
24 an impact if somebody calls out? Why can't you just pull  
25 someone from another store?



1 A Sure. We certainly could pull someone from another store.  
2 And the more notice that we have from a partner, the easier  
3 that is to do. It also depends on the role of the partner.  
4 And so a barista is more easily filled by a partner who had  
5 been trained as a barista at another store, whereas if it's a  
6 shift supervisor or a manager, there are additional  
7 considerations that we would need to have ensuring that that --  
8 that person had keys to the store, ensuring they could access  
9 the safe to that store, ensuring that they had access to the  
10 security alarm system, things like that.

11 Q In a situation where someone fails to call out or -- and  
12 they don't show up for their shift, are there ever -- is there  
13 ever an impact on the hours of operation for that store or what  
14 they can do for the rest of the day?

15 A There certainly could be, yes.

16 Q Oh, give us some examples, please.

17 MS. GARFIELD: Objection.

18 JUDGE GIANNOPOULOS: No, it's overruled.

19 On what basis?

20 MS. GARFIELD: It goes way beyond the pleadings.

21 JUDGE GIANNOPOULOS: I'll allow the company to try to make  
22 its defense.

23 Go ahead.

24 A So if we do not have enough partners to adequately staff a  
25 shift, it could result in a couple of different things. It

1     could result in us shutting down one of our channels of  
2     business, such as our mobile order and pay channel, which is a  
3     way that -- that customers can access the store. If it's a  
4     drive-thru location, it could either have a shutdown in the  
5     lobby of the store or shut down the drive-thru so that we could  
6     serve the customers based off the staff that we have. And in  
7     extreme cases, it may result in us closing a store entirely to  
8     where we wouldn't be able to serve any of the customers that --  
9     that wanted to visit our business.

10    Q     And on those occasions where you have to close a store  
11    early because you don't have adequate staffing, what happens to  
12    the partners who were scheduled to work until the end of the  
13    day?

14    A     Sure. So typically, we would offer them shifts at another  
15    location, because what happens when we do close the store is  
16    that that business does go to our other locations. And it  
17    could result, though, too, in a partner not being able to work  
18    if they're not able to get to another location.

19    Q     And are there times in those circumstances where the  
20    company still has to pay for the hours but not get the work  
21    from the barista?

22    A     Yes. Specific to the City of Seattle, there are Seattle  
23    scheduling laws and ordinance -- ordinances that do require us  
24    to pay predictability pay if we change a shift within a certain  
25    period of time.

1 Q So a partner's failure to call out or show up for their  
2 shift can financially impact the company?

3 A Absolutely, yes.

4 Q Does Starbucks have any written policy or -- or  
5 implemented policies in which they do not allow buttons to be  
6 distribute -- union-related buttons to be distributed before or  
7 after a shift to a customer?

8 A No.

9 Q Is there anything that prohibits a partner from  
10 distributing button -- union-related buttons to a customer on  
11 their day off outside the store?

12 A No.

13 Q Were the policies that we went over in the partner guide  
14 related to gifts and nonsolicitation adopted solely to respond  
15 to the current union act -- activity that's occurring in -- in  
16 the United States?

17 A No.

18 MS. SAADE: I don't have any other questions. Thank you.

19 JUDGE GIANNOPOULOS: Okay.

20 Ms. Multhaup and Ms. Garfield, do you need some time to  
21 look at your notes before we do anything else?

22 MS. GARFIELD: Yes, please, Your Honor.

23 JUDGE GIANNOPOULOS: All right. We'll take 10 minutes.

24 I don't think we'll get to your next witness today. I  
25 want to make sure we're out by 5 only because I don't want the



1 guards -- I don't want the guards mad at us.

2 MS. SAADE: Okay.

3 JUDGE GIANNOPOULOS: So we'll take a 10-minute break and  
4 then we'll come back for cross-examination.

5 There's a sequestration order in place, Sir, you heard our  
6 discussion earlier. Don't discuss your testimony with anyone.  
7 And you can step down and take a break.

8 (Off the record at 4:26 p.m.)

9 JUDGE GIANNOPOULOS: All right. We're back on the record.  
10 Cross-examination, Ms. Garfield. The Union indicated they  
11 don't have any questions. So go ahead, Ms. Garfield.

12 MS. GARFIELD: Thank you. Thank you very much, Your  
13 Honor.

14 **CROSS-EXAMINATION**

15 Q BY MS. GARFIELD: And good afternoon, Mr. Lawrence. And  
16 thank you for your patience throughout the day.

17 A of course.

18 Q Okay. So I -- I always like to begin, I -- I represent  
19 the NLRB. I don't represent the Union, okay? Are we clear on  
20 that?

21 A Yup.

22 Q Okay. Good enough. And -- and I -- and I listened to  
23 your testimony, but I -- I may have missed parts of it. To  
24 whom do you report?

25 A So I report to a partner resources director.



1 Q Okay. And what is your relationship to the regional  
2 director?

3 A I'm a business partner, so coach and a support partner to  
4 them.

5 Q Are you lateral to a regional director?

6 A I -- it -- if you looked at a pay band, it's a step down  
7 from a regional director.

8 Q Okay. But the store manager reports to the district  
9 manager --

10 A Correct.

11 Q -- correct? And the district manager reports to the  
12 regional director?

13 A Correct.

14 Q And the regional director reports to?

15 A The regional vice president.

16 Q So in the chain of command is your position but not on the  
17 same branch, let's say? Is it --

18 Q Correct.

19 Q Okay. So the store manager would not necessarily report  
20 to you at all; isn't that correct?

21 A That is correct.

22 Q Okay. And so in the case -- let's be more specific, Pam  
23 Mariscal, she would report to Johnna Turvin, correct? Johnna  
24 Turvin?

25 A In -- in January of this year? Yes.

1 Q Yes. Yes. And you would not be in that -- in that group  
2 of command, that hierarchy, correct?

3 A Correct.

4 Q Okay. Now, a person like Halley Hager, to whom would she  
5 report?

6 A Halley would also report in to Johnna Turvin.

7 Q Okay. And I -- I understand that Halley was maybe  
8 substituting for Pam Mariscal on or -- on or about -- on --on  
9 January 14th; is that your understanding as well?

10 A That is my understanding, yes.

11 Q Okay. Did she have a regular position -- Ms. Hager?

12 A Yes. She was a store manager of a neighboring store  
13 location.

14 Q A neighboring store. Which store did she manage, Mr.  
15 Lawrence?

16 A I believe the Olive Way location.

17 Q Do you have any idea how long she was a manager at Olive  
18 Way?

19 A Not off the top of my head, no.

20 Q Okay. Was it for more than a year?

21 A I don't know.

22 JUDGE GIANNOPOULOS: Is that somebody that you've known  
23 for a period of time to been a store manager? At least at  
24 that -- that -- during that time?

25 THE WITNESS: Halley is the store manager that -- that I

1 would think of for the Olive Way location, yes.

2 JUDGE GIANNOPOULOS: All right.

3 Q BY MS. GARFIELD: Now, the Olive Way store manager when  
4 Halley worked at -- as the Olive Way store manager, did -- did  
5 she too report to Johnna Turvin?

6 A They would have had the same district manager, yes.

7 Q And so the answer is yes, she would have --

8 A Yes.

9 Q -- reported to Johnna Turvin?

10 A Yes.

11 Q Now, it's an enviable -- enviable approach that Starbucks  
12 takes in the documents that you testified about. But this  
13 is -- this is really your goals; isn't that correct? It's your  
14 goals.

15 MS. SAADE: Objection.

16 JUDGE GIANNOPOULOS: On the basis of?

17 And when you say it's --

18 Let me -- let me cut you off.

19 It's a bit vague.

20 MS. GARFIELD: Okay.

21 JUDGE GIANNOPOULOS: So --

22 MS. GARFIELD: Let me rephrase it.

23 JUDGE GIANNOPOULOS: -- so rephrase particular -- with a  
24 particular document.

25 MS. GARFIELD: All right.

1 Q BY MS. GARFIELD: Just I want to talk about the partner  
2 guide. And you referenced sections in the partner guide, I  
3 believe there were several, but one of them --

4 JUDGE GIANNOPOULOS: That's Respondent's 11. Number 11.

5 THE WITNESS: I think she was looking at --

6 JUDGE GIANNOPOULOS: Oh, I'm sorry. I'm seeing the  
7 partner relations Virtual Coach.

8 You mean the handbook, yeah?

9 MS. GARFIELD: Yeah.

10 JUDGE GIANNOPOULOS: I -- my apologies. My apologies.

11 MS. GARFIELD: Okay.

12 Q BY MS. GARFIELD: So let me -- let me make --

13 JUDGE GIANNOPOULOS: Respondent's 9.

14 MS. GARFIELD: Yeah, okay.

15 JUDGE GIANNOPOULOS:

16 Q BY MS. GARFIELD: So I believe you -- you discussed -- in  
17 your direct testimony, you discussed the jury and witness duty,  
18 that's on page 55. Can you turn to page 55, please, Mr.  
19 Lawrence?

20 A Yes, I am flipping there right now.

21 Q Okay. As -- as you look through your policy on jury and  
22 witness duty, do you see anywhere in that policy that the --  
23 the employee who is summoned for jury duty or called to be a  
24 witness has to find a replacement for himself or herself?

25 A The words that I am reading is "If summoned to serve on a



1 jury or if subpoenaed to testify as a witness, the partner  
2 should immediately provide the manager a copy of the summons or  
3 subpoena and make arrangements with the manager for the time  
4 away from work".

5 JUDGE GIANNOPOULOS: Okay. Next question. Because the  
6 document really does speak for itself.

7 MS. GARFIELD: Okay. Thank you.

8 Q BY MS. GARFIELD: And so let me ask you --

9 JUDGE GIANNOPOULOS: Let me ask the question, because this  
10 came up during your direct. It's my understanding, sir, that  
11 you testified that it was policy to appear on jury duty, you  
12 can get paid --

13 THE WITNESS: Correct.

14 JUDGE GIANNOPOULOS: -- for a certain period of time. As  
15 I -- as I read this guide, it says that if you're on jury duty  
16 for, you know, a long trial -- I'm kind of paraphrasing -- you  
17 need to let -- you need to talk -- talk to somebody. But the  
18 pay, I don't see anything in here that says the pay also goes  
19 to someone who's on witness duty. If you get -- if you're a  
20 witness -- and you were very careful in your testimony to  
21 specify it's jury -- but at one point, Respondent's counsel  
22 also asked you about witness, but it's my understanding from  
23 this that the jury -- the pay is for jury duty.

24 THE WITNESS: That is my understanding. That --

25 JUDGE GIANNOPOULOS: Okay. Correct? You're -- is there

1 any -- I don't see anything in here that says you get paid if  
2 you're a witness.

3 THE WITNESS: No. We have a benefits plan manual that  
4 also does outline the pay in a different way.

5 JUDGE GIANNOPOULOS: All right. But that's not in here,  
6 that's --

7 THE WITNESS: That's not in here.

8 JUDGE GIANNOPOULOS: -- isn't even offered anywhere?  
9 Okay.

10 Next question.

11 MS. GARFIELD: Okay.

12 Q BY MS. GARFIELD: I -- I wanted you to look at  
13 Respondent's 11, that's the partner relations Virtual Coach.

14 A Okay.

15 Q And would -- when was that put into place, if you  
16 remember?

17 A I do not know the date.

18 Q Okay. Do you know whether this was in place in January of  
19 2022?

20 A Yes, it would have been.

21 Q Okay. Do you know whether as a result of the -- of the --

22 MS. GARFIELD: Strike that.

23 Q BY MS. GARFIELD: In January of 2022, do you recall any  
24 occasions where you visited the Broadway and Denny store and  
25 spoke --

1 MS. GARFIELD: Let me stop there.

2 Q BY MS. GARFIELD: Do you recall any occasions when you  
3 visited the Broadway and Denny store?

4 A No.

5 Q Okay. Do you recall in January of 2022 any occasions when  
6 you spoke to Pam Mariscal? In January 2022.

7 A No.

8 Q Any occasions in January 2022 when you spoke to Halley  
9 Hager?

10 A No.

11 Q Now, is it correct that Starbucks relies on its first line  
12 of supervision, such as the store manager, to -- to implement  
13 corporate policy?

14 A The store manager? Yes.

15 Q Yes.

16 A In their store, yes.

17 Q And would you say that the store manager has a significant  
18 amount of discretion to deal with things that will come up in a  
19 moment, in a -- in an hour on the job -- on -- on the floor of  
20 the store?

21 A Yes. And any time that a store manager is not confident,  
22 they have support and resources available to them.

23 Q Understood. But some -- let's assume that -- can we  
24 assume that Mariscal was a confident store supervisor?

25 A Yes.

1 Q Store manager? Okay. Okay. And so generally speaking, a  
2 store manager would make judgments on her own without going  
3 through this Virtual Coach; is that correct?

4 A It depends on their comfort level.

5 Q But the Virtual Coach is used as a resource, not in lieu  
6 of -- of having a manager depending on her or his comfort level  
7 make decisions regarding what happens at her or his store; is  
8 that correct?

9 A It is -- it is designed to support the managers in making  
10 that decision.

11 Q Support. Let me ask you, do you know whether on the  
12 inner -- in January Halley Hager interacted with this resource  
13 concerning Ms. Ybarra's request -- subpoena request? Do you  
14 know whether she used this resource?

15 A I would not know that, no.

16 Q Okay.

17 JUDGE GIANNOPOULOS: Let me ask you a question. Let's not  
18 abuse her -- the General Counsel, unfortunately, it's -- it's  
19 almost 4:45. I hear the janitors -- I hear vacuums and  
20 cleaning going on. And I know we -- we need to be out by 5:00.  
21 How much more questions do you have, General Counsel?

22 MS. GARFIELD: I believe, Your Honor, that I'll be  
23 finished by -- before 5:00 -- before 5:00 -- before 4:55, if  
24 you will.

25 JUDGE GIANNOPOULOS: All right. Go ahead. Next question.

1 MS. GARFIELD: Okay.

2 Q BY MS. GARFIELD: But do you -- do you have any  
3 independent knowledge that Pam Mariscal accessed this Virtual  
4 Coach resource when dealing with the -- the -- when dealing  
5 with Ms. Ybarra's giving buttons to a customer?

6 A I do not know that.

7 JUDGE GIANNOPOULOS: But let me just cut to the chase.  
8 All of these resources that you talked about, sir, it's my  
9 understanding that they're all available to the store manager.  
10 But as you're sitting here today, do you know if either of the  
11 two store managers, Ms. Mariscal or Ms. -- my memory's not as  
12 good as it should be --

13 MS. GARFIELD: Hager.

14 JUDGE GIANNOPOULOS: -- or Ms. Hager actually accessed  
15 those for the incidents that we're talking about today?

16 THE WITNESS: I do not know that.

17 JUDGE GIANNOPOULOS: All right. So next question.  
18 Hopefully, that cuts the questions.

19 MS. GARFIELD: Well, thank you very much, Your Honor,  
20 because I have no further questions.

21 JUDGE GIANNOPOULOS: Okay.

22 Any --

23 MS. SAADE: I just have one.

24 JUDGE GIANNOPOULOS: Sure.

25 MS. GARFIELD: Thank you.

1                                    **REDIRECT EXAMINATION**

2            Q        BY MS. SAADE: Mr. Lawrence, can -- is it Starbucks'  
3            pos -- or is it your experience that a store manager will issue  
4            a corrective action or terminate someone's employment without  
5            engaging with partner resources or their district manager?

6            A        It depends on -- on the infractions. Of separation? No,  
7            that would not be my experience. In the example of the partner  
8            relations Virtual Coach that we have right here, that does  
9            guide a store manager that -- in this particular instance, a  
10          final written warning, which is a corrective action, would  
11          consistently be recommended. And so the store manager could  
12          absolutely be competent in delivering a corrective action  
13          following through this coaching and this guidance.

14                   JUDGE GIANNOPOULOS: On their own?

15                   THE WITNESS: Yes.

16                   JUDGE GIANNOPOULOS: Okay. Yeah. And I'm assuming, I  
17          mean, it just makes sense that it would depend on the  
18          infraction. I mean, if an employee comes in and starts beating  
19          on someone else, I'm assuming the store manager can fire them?

20                   THE WITNESS: They would --

21                   JUDGE GIANNOPOULOS: Without having to call a friend, you  
22          know, if someone like strikes somebody else out of the blue?

23                   THE WITNESS: If something like that happens, they would  
24          be guided -- they typically would call.

25                   JUDGE GIANNOPOULOS: They would typically --

1 THE WITNESS: Yeah.

2 JUDGE GIANNOPOULOS: All right.

3 THE WITNESS: Yeah.

4 JUDGE GIANNOPOULOS: Go ahead.

5 MS. SAADE: No further questions.

6 JUDGE GIANNOPOULOS: All right.

7 Anything from the General Counsel?

8 MS. GARFIELD: Just one minute, Your Honor.

9 JUDGE GIANNOPOULOS: Sure. I got my Virtual Coach here.

10 **RECROSS-EXAMINATION**

11 Q BY MS. GARFIELD: Okay. So just one question, Mr. --  
12 Mr. -- Mr. Lawrence. So is it your understanding that if an  
13 employee called out or was -- a no -- was a no call/no show, he  
14 or she would be disciplined?

15 A It depends on the circumstance. But following through the  
16 coach in an example here, if a partner had a no call/no show  
17 where they did not inform their leader that they would be  
18 absent for a planned absence, it would guide them to be placed  
19 on a final written warning.

20 Q And -- and -- thank you. And the exception to that -- I  
21 think you did say that the exception to that was a medical  
22 emergency, correct?

23 A Correct.

24 MS. SAADE: Objection. Misconstrues his testimony.

25 JUDGE GIANNOPOULOS: Well, it -- it may, but that's what

1     it says on the document. It says, "One no call/no show without  
2     a medical emergency -- re -- or" -- slash -- "medical/emergency  
3     reason".

4             MS. SAADE: But that's not what her question. She said  
5     "your testimony" and that's -- that's -- his testimony went  
6     beyond the --

7             JUDGE GIANNOPOULOS: That's all right.

8             MS. SAADE: -- the language.

9             JUDGE GIANNOPOULOS: I don't remember what his testimony  
10    was, but it's in the record.

11            MS. SAADE: Thank you.

12            JUDGE GIANNOPOULOS: And so I understood, I -- I don't  
13    think it -- I don't think it was misconstrued. It was  
14    purposeful. And I don't think it really matters, quite  
15    honestly.

16            MS. SAADE: Thank you.

17            JUDGE GIANNOPOULOS: But I -- I understand. All right.

18            MS. GARFIELD: I have no further questions. Thank you  
19    very much.

20            JUDGE GIANNOPOULOS: Anything else?

21            MS. SAADE: No.

22            JUDGE GIANNOPOULOS: All right.

23            MS. SAADE: Thank you.

24            JUDGE GIANNOPOULOS: Mr. Lawrence, thank you, sir. You  
25    can take your seat again back at the counsel table as the



1 employer's rep. Again, my admonition about discussing your  
2 testimony, don't discuss your testimony with anyone because of  
3 the sequestration order in place.

4 THE WITNESS: Thank you.

5 JUDGE GIANNOPOULOS: All right. So I think it's time to  
6 pack up. It's almost time the building closes. We will  
7 reconvene tomorrow at 9 a.m. And we are off the record.

8 **(Whereupon, the hearing in the above-entitled matter was closed**  
9 **at 4:48 p.m.)**

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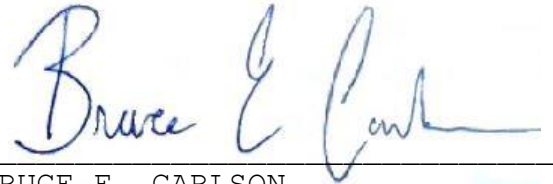
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C E R T I F I C A T I O N

This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), Region 19, Case Number 19-CA-289275, Starbucks Corporation and Workers United, Affiliated with Service Employees International Union, held at the National Labor Relations Board, Region 15, 2948 Jackson Federal Building, 915 Second Avenue, Seattle, WA 98174, on September 13, 2022, at 9:01 a.m. was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the reporting or recording, accomplished at the hearing, that the exhibit files have been checked for completeness and no exhibits received in evidence or in the rejected exhibit files are missing.



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BRUCE E. CARLSON

Official Reporter

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 19

In the Matter of:

Starbucks Corporation,

Case No. 19-CA-289275

Respondent,

and

Workers United, Affiliated with  
Service Employees International  
Union,

Charging Party.

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Place: San Francisco, California

Dates: September 14, 2022

Pages: 234 through 337

Volume: 2

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UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

REGION 19

In the Matter of:

STARBUCKS CORPORATION,

Employer,

and

WORKERS UNITED, AFFILIATED WITH  
SERVICE EMPLOYEES INTERNATIONAL  
UNION,

Charging Party.

Case No. 19-CA-289275

The above-entitled matter came on for hearing, pursuant to notice, before **JOHN T. GIANNOPOULOS**, Administrative Law Judge, at the National Labor Relations Board, Region 19, 2948 Jackson Federal Building, 915 2nd Avenue, Seattle, Washington 98174-1078, on **Wednesday, September 14, 2022, 9:04 a.m.**



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I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Pamela Mariscal	240	266 290	295 301 301	305	300
Ryan Lassiter	307	313			
Rachel Ybarra	317	330			

E X H I B I T SEXHIBITIDENTIFIEDIN EVIDENCE**Respondent:**

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301

1                                    P R O C E E D I N G S

2                    JUDGE GIANNOPOULOS: All right. Good morning, everyone.  
3 We're back on the record of the ma -- in the case of Starbucks  
4 Corporation, 19-CA-289275.

5                    I was looking through the exhibit list yesterday. The  
6 only exhibit that we have rejected is the partner guide, that  
7 solicitation. It was just an excerpt, and I was just  
8 wondering, to make things cleaner, is there any objections to  
9 that just coming in, as well, from -- from the General Counsel?  
10 We have the entire partner guide in. Yesterday, I sustained  
11 the objection because it was -- it was only a partial part of  
12 the document, but it looks like it's just -- it's just the  
13 pages in question. Any objections?

14                  MS. GARFIELD: No, Your Honor.

15                  JUDGE GIANNOPOULOS: From the Union?

16                  MS. MULTHAUP: No.

17                  JUDGE GIANNOPOULOS: So Ms. Saade, I'm going to admit  
18 Respondent's 5 since we have the entire document in. And then,  
19 that's available, as well, for everyone to cite.

20                  So Bruce, move that from the rejected exhibit file to the  
21 admitted file.

22                  **(Respondent Exhibit Number 5 Received into Evidence)**

23                  JUDGE GIANNOPOULOS: All right. I think we're ready for  
24 witness testimony.

25                  So Ms. Lynch, your next witness. I'm just -- I'm teasing.





1 MS. LYNCH: Thank you.

2 JUDGE GIANNOPOULOS: I'm just teasing. I --

3 MS. LYNCH: I appreciate that.

4 JUDGE GIANNOPOULOS: Okay. Ms. Saade, your next witness?

5 MS. SAADE: Okay. I'd like to call Pam Mariscal.

6 JUDGE GIANNOPOULOS: All right. Good morning, ma'am.

7 MS. MARISCAL: Good morning.

8 JUDGE GIANNOPOULOS: Could you please step up here?

9 Let me have you raise your right hand.

10 Whereupon,

11 **PAMELA MARISCAL**

12 having been duly sworn, was called as a witness herein and was  
13 examined and testified as follows:

14 JUDGE GIANNOPOULOS: And have a seat.

15 State your first and last name and spell it for the  
16 record.

17 THE WITNESS: Pamela Mariscal, P-A-M-E-L-A  
18 M-A-R-I-S-C-A-L.

19 JUDGE GIANNOPOULOS: Thank you.

20 And before we start questioning, Ms. Saade, why don't you  
21 state for the record you have a different corporate  
22 representative with you today?

23 MS. SAADE: Yes, thank you. I do, Your Honor. His name  
24 is Ryan Lassiter, L-A-S-S-I-T-E-R.

25 JUDGE GIANNOPOULOS: Okay, great. Thank you. All right.

1            You can go ahead, Ms. Saade.

2 MS. SAADE: Thank you.

3 DIRECT EXAMINATION

4 Q BY MS. SAADE: Good morning?

5       A       Good morning.

6 Q Could you please tell us who your employer is?

7      A      Starbucks.

8 Q And how long have you worked for Starbucks?

9       A       I've worked for Starbucks a little over three years.

10 Q And what's your current job title?

```
11      A      Store manager.
```

12 Q And are you assigned to a particular store?

13       A       Yes, Broadway and Denny.

14 Q And is that the store known as 304?

15       A     Yes, that's correct.

16 Q Other than your current role, have you held other  
17 positions at Starbucks?

18       A       Yes, a store manager trainee before I became a store  
19       manager at Broadway and Denny.

20 Q Are you familiar with -- or are you aware that Starbucks  
21 has a policy titled "soliciting and distributing notices"?

22           A       Yes.

23 MS. SAADE: And I don't if the wit -- are the formal  
24 exhibits --

25 JUDGE GIANNOPOULOS: They are not. They've been taken

1 away, but I can give her one of mine. Which --

2 MS. SAADE: Yeah, Respondent's 9, please.

3 JUDGE GIANNOPOULOS: Sure.

4 MS. SAADE: Thank you.

5 JUDGE GIANNOPOULOS: Okay. Here's Respondent's Number 9.

6 MS. SAADE: Thank you.

7 Q BY MS. SAADE: And could you please turn to the policy  
8 that, you know, to be in the solicitation and distribution  
9 policy? The page number for you is page 36.

10 A Yeah.

11 Q Could you review the doc -- that page, 36, and advise  
12 whether or not that's the policy you're aware of that exists at  
13 Starbucks related to the distribution of notices and soliciting  
14 activity at the stores?

15 A Yes.

16 Q And are you also familiar with a policy known as "gifts  
17 and entertainment policy"?

18 A Yes.

19 Q And could you please turn to page 31 of the partner guide,  
20 Respondent's 9, and let me know if the policy that starts on  
21 page 31 and continues on 32 is the policy you know to apply to  
22 gifts and entertainment at the store?

23 A Yes.

24 Q I want to direct your attention to late January. Were you  
25 working -- you were working at the Broadway and Denny store

1     then?

2     A     That's correct.

3     Q     Do you recall, around that day, that an incident where a  
4     partner who was working gave a customer a button or a pen while  
5     they were working?

6     A     Yes.

7     Q     To the best you can recall, please tell us what happened  
8     that day?

9     A     I was on the floor, behind the line working with the  
10    partners. And I observed one of the partners walk to the back  
11    and leave their position and then come across and hand a -- a  
12    button to a customer in the lobby.

13    Q     And where was the customer at the time?

14    A     Right on the other side of the counter.

15    Q     And was it -- what was your understanding of what the  
16    customer was there for?

17    A     The -- the period they were waiting for their mobile  
18    order.

19    Q     And so is it fair to say that the -- the customer was  
20    engaged in receiving services from Starbucks or a product from  
21    Starbucks?

22    A     That's correct.

23    Q     And the partner was on work time at the time this  
24    happened?

25    A     Yes.

1 Q And how do you know the partner was on work time?

2 A I was working on the floor with them.

3 Q And did the partner let you know be -- they were leaving  
4 the floor before they left the floor?

5 A Not that I recall.

6 Q Did you overhear the partner ask someone else to cover  
7 their position for them?

8 A No.

9 Q Were you aware of any work reason for the partner to leave  
10 the floor?

11 A No.

12 Q Was there anything else about the partner's conduct that  
13 suggested they were providing Starbucks services or product to  
14 the customer between the time they left their station and came  
15 back?

16 A Could you rephrase that again? I'm sorry.

17 Q Yeah. Was there anything about what the partner did or  
18 sa -- said in the moment that suggested to you that they were  
19 performing work duties in those moments where they left their  
20 station and went to the back and came back?

21 A No, there was -- there shouldn't have been any reason for  
22 them to leave the floor.

23 Q Do you recall, like, what the partner's assignment was at  
24 the time this all happened?

25 A I -- I don't. I want to say they were on the bar, but I'm

1 not sure that I remember.

2 Q But you're pretty confident, at the time, your -- your  
3 assessment was that they should not have left their position?

4 A Correct.

5 Q Did you speak to the partner immediately after you saw  
6 this happen?

7 A I did not.

8 Q And why not?

9 A I was unsure of what the situation was and the -- the  
10 policy regarding the situation, so I wanted to get -- I wanted  
11 to talk to my leader first.

12 Q And when you did speak to the partner, when was that?

13 A I want to say it was after I observed them handing out  
14 pens a second time.

15 Q And what did you tell the partner?

16 A I let them know that they couldn't -- couldn't be handing  
17 out things to customers that was not, you know, their food or  
18 beverage while on work time.

19 JUDGE GIANNOPOULOS: All right, so let's just back up a  
20 little bit. This -- that conversation you just had with --  
21 first of all, who was it? Who -- who was the person that you  
22 said that to?

23 THE WITNESS: The partner?

24 JUDGE GIANNOPOULOS: Yeah.

25 THE WITNESS: Rachel Ybarra.



1 JUDGE GIANNOPOULOS: Okay. All right, and when -- when  
2 did that conversation -- you said it -- it occurred after the  
3 second time you saw her giving out a pen.

4 THE WITNESS: Um-hum.

5 JUDGE GIANNOPOULOS: So when did that occur in  
6 relationship to the first time?

7 THE WITNESS: I -- I don't recall how long -- how many  
8 days or if it was the next day or not.

9 JUDGE GIANNOPOULOS: Okay, and where did the conversation  
10 take place?

11 THE WITNESS: In the back of house, in --

12 JUDGE GIANNOPOULOS: In the back?

13 THE WITNESS: Yeah, in the -- in the back room, basically.

14 JUDGE GIANNOPOULOS: Oh, okay.

15 THE WITNESS: Yeah.

16 JUDGE GIANNOPOULOS: And is that just -- to go to the back  
17 room, is that just like going through a hallway?

18 THE WITNESS: It's going through an -- an additional door,  
19 yeah, to get to where our storage area is, I guess, yeah.

20 JUDGE GIANNOPOULOS: Okay, so is that the same -- is it,  
21 like, a -- is it, like, a -- like, a -- like, a door in the  
22 back that you -- that you push open? Does it have a doorknob  
23 on it?

24 THE WITNESS: It is a swinging door.

25 JUDGE GIANNOPOULOS: A swinging door, that was the word I

1 was looking for but I couldn't think of.

2 THE WITNESS: Yeah.

3 JUDGE GIANNOPOULOS: It's a swinging door, and is that the  
4 same room that Ms. Ybarra went back to -- to retrieve the  
5 button?

6 THE WITNESS: That's correct.

7 JUDGE GIANNOPOULOS: Okay. All right, and what --  
8 Go ahead. Go ahead, Ms. Saade.

9 MS. SAADE: Sure.

10 Q BY MS. SAADE: It sounds as though you don't recall  
11 exactly how much time passed between the first time you saw  
12 Rachel give the button to a customer and then the time you  
13 spoke with her. But do you have any sense as to whether or not  
14 it was the same week, the same month?

15 A I -- I think it's within a couple days, yeah.

16 Q So in January of 2022?

17 A Right.

18 Q Have you had any conversations with Ms. Ybarra since  
19 January 20 -- 2022 about distributing buttons in the workplace?

20 A Not that I recall.

21 Q Okay, and when you spoke to the partner, how would you  
22 characterize the conversation? Was it a disciplinary meeting?

23 A No, it was just a conversation. I let them know that that  
24 is something that they shouldn't be doing while they're, you  
25 know, on the clock, that they can do that outside of the store,



1     you know, on their free time, like, to -- and hand them to  
2     friends, family. You know, it was -- I just told them, this is  
3     not appropriate while you're on the floor and you're working.

4     Q     Did you use a harsh tone when you spoke to the partner?

5     A     No.

6     Q     Did you raise your voice when you're speaking with the  
7     partner?

8     A     No.

9           MS. GARFIELD: Objection. Leading.

10          JUDGE GIANNOPOULOS: No, no, that's okay. Overruled.

11     Q     BY MS. SAADE: Were you sitting, standing?

12     A     Standing. I -- I don't remember.

13     Q     Okay. Did you use your body in any way to try to  
14     intimidate Ms. Ybarra?

15     A     No.

16     Q     How would you describe the interaction with her?

17     A     It just seemed like a simple conversation. You know, I  
18     pulled Rachel aside and let them know that, hey, this is not  
19     something that you should be doing while you're on the clock,  
20     you know, again, you can do that outside of work, you know,  
21     when you're in your free time, but it's not something that  
22     should be happening during the --

23          JUDGE GIANNOPOULOS: Okay. You -- you just said you  
24     pulled Rachel aside and let them know. So -- so who is them?  
25     Who else was present?

1 THE WITNESS: I -- Rachel prefers they/them pro --  
2 pronouns, so I wanted to be respectful of that.

3 JUDGE GIANNOPOULOS: I see, okay. Thank you. All right.

4 Next question. Was anyone else pre -- and there was no  
5 foundational objection, so let's -- let's get foundation, you  
6 know, who, what, where, when. Who -- who -- who all was  
7 present, anyone -- was anyone else present?

8 THE WITNESS: No.

9 JUDGE GIANNOPOULOS: So just the two of you in the back  
10 room. Do you recall what time of day?

11 THE WITNESS: I don't recall.

12 JUDGE GIANNOPOULOS: Okay, all right. Go ahead, Ms.

13 Saade.

14 Q BY MS. SAADE: Are -- are you certain you made it clear  
15 that you were only focusing your comments about work time?

16 A Yes.

17 Q Did you ever tell Ms. Ybarra not to give out Union buttons  
18 or pens to customers while not at work?

19 MS. GARFIELD: Objection. Leading.

20 JUDGE GIANNOPOULOS: No, she already -- she already  
21 testified to that.

22 Did -- did that even come up? Think back. I know it  
23 was -- I know it was a while back. And it's difficult, you  
24 know -- it's difficult to testify about exactly what happened.  
25 But think back and tell me word for word what you remember you

1       said, what you remember Rachel said.

2               THE WITNESS:  When I mentioned it to Rachel, they made the  
3       comment that they were on -- the second time, they were on a  
4       ten-minute break.  And I said, that is still considered a  
5       company-paid time, so it is not something you should be doing  
6       while on the clock.

7               JUDGE GIANNOPOULOS:  Okay, and that -- and that's what was  
8       said?

9               THE WITNESS:  Yes.

10              JUDGE GIANNOPOULOS:  Nothing else was said?

11              THE WITNESS:  Other than what I mentioned earlier, you can  
12       do this on your off-time outside of Starbucks, you know, to  
13       your friends, family, whoever you'd like, you just can't do it  
14       while you're on the clock.

15              JUDGE GIANNOPOULOS:  Okay, so that's what was said.  No  
16       more questions about was this sad, was that said.  That's what  
17       she said was said.  All right, very good.  Thank you.

18       Q       BY MS. SAADE:  Had you ever heard of any partners at the  
19       Broadway and Denny location giving a regular customer that  
20       visits the store \$2 bills?

21       A       No.

22       Q       Have -- have you ever witnessed any partners at the  
23       Broadway and Denny location occasionally handing out stickers  
24       to customers?

25       A       During the holidays, like, I think Halloween or Christmas,

1 we would put little stickers on the cups just to, like, spread  
2 holiday cheer, essentially, but not handing them to customers,  
3 no.

4 Q And do those -- did those stickers have any message on  
5 them?

6 A No, it was literally just to spread holiday cheer to --  
7 for our delivery and our mobile customers.

8 JUDGE GIANNOPOULOS: So give me an idea of what these  
9 stickers looked like. How big were they?

10 THE WITNESS: They were --

11 JUDGE GIANNOPOULOS: What kind of pictures were on them?  
12 What did they say?

13 THE WITNESS: Little dime-sized stickers with little trees  
14 or pumpkins.

15 JUDGE GIANNOPOULOS: Okay, all right.

16 THE WITNESS: Santa Claus.

17 JUDGE GIANNOPOULOS: All right, great. Thank you.

18 Q BY MS. SAADE: And did you believe that the conduct of  
19 handing out the occasional sticker was a violation of Starbucks  
20 policy?

21 A No.

22 Q Did any of the partners have to leave the floor to go get  
23 the stickers to give to the customers?

24 A No, we kept the little tin right where we package up our  
25 deliveries and our mobile orders.

1 Q And are -- do -- in your regular delivery of services, do  
2 you use other forms of stickers to put on some of the products?

3 A Yeah, yeah, to seal the drinks for our delivery orders so  
4 they don't spill, you know, in the package of the bags.

5 Q So --

6 JUDGE GIANNOPOULOS: I mean, don't you put stickers with  
7 people's names on it?

8 THE WITNESS: Yeah, on the cups.

9 JUDGE GIANNOPOULOS: I mean, you know, I've seen that --  
10 anyway, okay.

11 Q BY MS. SAADE: So was -- was the use of the stickers  
12 con -- consistent with your regular operations?

13 A Yeah.

14 Q At some point in --

15 JUDGE GIANNOPOULOS: Wait. I mean, okay, there -- to me,  
16 there's a big difference between a sticker that the register  
17 prints out that you put someone's name on, so you know who you  
18 gave the order and a sticker that you only do on holidays and  
19 holiday cheer. So consistent operation, you know, I don't  
20 believe that. It's just different.

21 MS. SAADE: I understand that, Your Honor, but I'm --

22 JUDGE GIANNOPOULOS: Move on.

23 MS. SAADE: I think I'm --

24 JUDGE GIANNOPOULOS: Move on. I don't --

25 MS. SAADE: -- I'm entitled, though, to give my --

1 JUDGE GIANNOPOULOS: You're entitled -- you're entitled,  
2 but I just don't believe the answer. How is that for --

3 MS. SAADE: That's fine, for you to exercise your judgment  
4 when you're reviewing all the facts of -- that are put into  
5 evidence. But Your Honor, respectfully, I am entitled to  
6 examine my witnesses --

7 JUDGE GIANNOPOULOS: Absolutely, absolutely.

8 MS. SAADE: -- and to get their testimony under oath and  
9 create a record.

10 JUDGE GIANNOPOULOS: And they have to be truthful.

11 MS. SAADE: And --

12 JUDGE GIANNOPOULOS: And they have to be truthful. Next  
13 question.

14 MS. SAADE: I don't believe the witness is intentionally  
15 misleading you.

16 JUDGE GIANNOPOULOS: Next question, Counsel.

17 MS. SAADE: Respectfully, Your Honor, I think I --

18 JUDGE GIANNOPOULOS: Respectfully, you need to move on to  
19 your next question.

20 Q BY MS. SAADE: Ms. Mariscal, at any point in January of  
21 2022, didn't Ms. Halley Hager cover any management shifts at  
22 the Broadway and Denny store for you?

23 A Yes.

24 Q And what were the circumstances that led to that?

25 A I was called to a previous hearing and had to be out of

1 the store for a day-and-a-half, or two days, almost.

2 Q Did she replace you for an extended period of time?

3 A No, she was just for those -- those two days, and she was  
4 my point of contact over the weekend.

5 Q Did you -- did you notify the team at the Broadway and  
6 Denny store that you were unavailable for any questions that  
7 they had while Halley was covering your shifts?

8 A I --

9 MS. GARFIELD: Objection.

10 JUDGE GIANNOPOULOS: I'm sorry. There's an objection on  
11 what basis?

12 MS. GARFIELD: Again, leading. What did she ask --

13 JUDGE GIANNOPOULOS: You know, I -- I will say -- I will  
14 say, counsel, and that goes with your other question, the  
15 leading questions of friendly witnesses mean very little to me.  
16 And just because -- that -- just because you -- you lead -- I  
17 think that was leading, as was the other question on normal  
18 business operation. You need to lay the proper foundation.  
19 Now, re-ask the question. When you went on --

20 Ma'am, when you went on your vacation, did you -- what did  
21 you instruct your staff? Did you expect your staff as to  
22 anything to do while you were gone?

23 THE WITNESS: I was not technically on vacation. I just  
24 had to --

25 JUDGE GIANNOPOULOS: Or what -- whatever leave you took

1 where Ms. Hager substituted for you. Did you give any kind of  
2 instructions to your staff?

3 THE WITNESS: No.

4 JUDGE GIANNOPOULOS: All right, that's it. That's  
5 the -- that's the answer. Next question.

6 Q BY MS. SAADE: Are -- are partners able to reach you when  
7 you're not in the store?

8 A Yes.

9 Q In what way?

10 A They can call or send me a quick text message.

11 Q How do partners at the Broadway and Denny store typically  
12 communicate with you about their availability to work?

13 A They actually submit an availability form, or they can go  
14 into our system and select what their availability is.

15 Q And do you ever receive requests to address scheduled  
16 hours?

17 A Yes. Normally, there's a policy where they have to do  
18 time-off requests or changes in their requests within 21 days.

19 Q And how do you receive those requests?

20 A Through our system, they submit a time-off request.

21 JUDGE GIANNOPOULOS: And do you have, ma'am -- I think  
22 this came up yesterday. You weren't here. But do you have  
23 access to that system in the store itself?

24 THE WITNESS: The partners?

25 JUDGE GIANNOPOULOS: The electronic system. I think



1       there -- is it electronic? There was an electronic system  
2       where people can put in their schedules?

3               THE WITNESS: That's correct.

4               JUDGE GIANNOPOULOS: And do you have access to that at  
5       your store?

6               THE WITNESS: Yeah, I have -- in my laptop.

7               JUDGE GIANNOPOULOS: Like, in a laptop. And then, that --  
8       you can also access that if you're not in the store?

9               THE WITNESS: Yeah, on my laptop or on my -- I have an  
10      Apple Mac phone that I can review.

11              JUDGE GIANNOPOULOS: Okay, so if you're at home or  
12      somewhere else and you need to access it, you can access that?

13              THE WITNESS: Yes.

14              JUDGE GIANNOPOULOS: Okay, thank you.

15              Go ahead, Counsel.

16              MS. SAADE: Thank you.

17      Q       BY MS. SAADE: And can you tell us how scheduling takes  
18      place, like, when -- when schedules are issued and how often?

19      A       Yeah, schedules are issued every Monday, and we post  
20      forward two weeks ahead of time. So if I -- Monday's schedule  
21      was posted for the week of, I'm sorry, the 26th, I think, is  
22      next Monday. So it's three weeks' worth of schedules, the  
23      current week and then two additional weeks ahead of time.

24      Q       And for purposes of this hearing, did you access the  
25      schedules for the week of January 10th and January 17th?

1 A As far as make changes, or what's --

2 Q No, as part of -- as part of Starbucks' involvement in  
3 this case, did you access the electronically stored schedules  
4 for the Broadway and Denny store for the week of January 10th,  
5 2022?

6 A Yeah, I -- I mean, I review the schedules and the coverage  
7 daily.

8 JUDGE GIANNOPOULOS: She's asking -- she's -- what she's  
9 asking for you, in preparation for you to come in and testify  
10 in this case, or for this case, did you go back and pull the  
11 schedule for that week?

12 THE WITNESS: For -- oh, for this -- yes.

13 MS. GARFIELD: Yes.

14 THE WITNESS: I -- I apologize.

15 MS. SAADE: Thank you.

16 JUDGE GIANNOPOULOS: Okay, all right.

17 MS. SAADE: I'd ask Your Honor if he could show the  
18 witness Exhibit 2, Respondent's 2 (sic).

19 JUDGE GIANNOPOULOS: So unfortunately, 2 -- I took 2  
20 apart.

21 MS. SAADE: Yeah.

22 JUDGE GIANNOPOULOS: Right, and so you just want the -- I  
23 see. You just want the last page.

24 MS. SAADE: I -- I -- yes, please.

25 JUDGE GIANNOPOULOS: And I have the pages that we took

1       apart. Let me find the -- let me find the -- the -- the --

2               MS. SAADE: If you don't have it, I can show her my copy.

3               JUDGE GIANNOPOULOS: Let me find the cover page of 2, if  
4       I -- if I still have it here.

5               MS. SAADE: I have it, Your Honor.

6               JUDGE GIANNOPOULOS: Yeah, okay.

7               MS. SAADE: I'm happy to just give her my copy if you'd  
8       like.

9               JUDGE GIANNOPOULOS: Yeah, sure.

10              MS. SAADE: Okay.

11       Q       BY MS. SAADE: Ms. Ybarra (sic), I've shown you what's  
12       been marked as Respondent's 2. Is that a page of the printout  
13       you provided my office in connection with this hearing?

14       A       Yes.

15       Q       How did you generate this printout?

16       A       I went into our scheduling tool and just went back and  
17       saved the screenshot, essentially, that page, and sent it to  
18       you.

19       Q       Did you --

20              JUDGE GIANNOPOULOS: For -- for the week, for that week?

21              THE WITNESS: That's correct.

22              JUDGE GIANNOPOULOS: Okay.

23       Q       BY MS. SAADE: Did you make any modifications before you  
24       printed it out from the system?

25       A       No.

1 Q Did you also access the schedule for the week of January  
2 17th?

3 A This is the week of the 17th.

4 Q Oh, I apologize. I gave you the -- that should --

5 JUDGE GIANNOPOULOS: Well, I think this is the -- is it --  
6 I mean, I'm not sure how it works. It ends on the 17th.  
7 My -- isn't 2 starting with Monday the 10th?

8 MS. MCBRIDE: I actually gave her what I intended to be  
9 Respondent's 12, Your Honor. I apologize. I should wear my  
10 glasses more --

11 JUDGE GIANNOPOULOS: Oh, I'm sorry. All right, so 2 --  
12 That's okay.

13 So 2, ma'am, is -- do you have -- 2 is this document here.

14 MS. SAADE: It was 12.

15 JUDGE GIANNOPOULOS: So take a look at that.

16 THE WITNESS: Yeah.

17 MS. SAADE: Yes, thank you.

18 MS. GARFIELD: Your Honor, may -- may I be heard for a  
19 second?

20 JUDGE GIANNOPOULOS: Well, is there an -- you should -- if  
21 you make an objection. What would you like to say?

22 MS. GARFIELD: What would I like to say?

23 JUDGE GIANNOPOULOS: Usually, people -- usually, counsels  
24 say objection.

25 MS. GARFIELD: Okay.

1 JUDGE GIANNOPOULOS: And then, I let them speak, as  
2 opposed to just blurting out that they want to be heard.

3 MS. GARFIELD: Well, I'll be -- I'll -- thank you. Thank  
4 you, Your Honor. Okay, I -- I understand. I'll say objection,  
5 and I would ask that in the future, when -- when Ms. -- Ms.  
6 Saade gives the witness an exhibit that hasn't been introduced  
7 or -- or marked that, she provide General Counsel and Charging  
8 Party of copies of the exhibits.

9 JUDGE GIANNOPOULOS: Okay, I think that was a simple  
10 mistake.

11 MS. SAADE: It was, Your Honor.

12 JUDGE GIANNOPOULOS: She thought she was giving her 2, and  
13 she gave her 12.

14 MS. GARFIELD: Yes, and I -- and I -- and I believe that  
15 it was an innocent mistake, as well.

16 JUDGE GIANNOPOULOS: Yeah, I think it was just a simple  
17 mistake.

18 Does everyone have --

19 MS. GARFIELD: Which is why I didn't object. I just  
20 wanted to be heard.

21 JUDGE GIANNOPOULOS: Yeah, I understand.

22 MS. GARFIELD: Thank you.

23 JUDGE GIANNOPOULOS: Does everyone have a copy of -- of  
24 12?

25 MS. GARFIELD: Yes.

1 JUDGE GIANNOPOULOS: Okay, everyone has a copy of 12, and  
2 we are now --

3 Let's circle back, Ms. Saade, and ask her about 2 again.

4 MS. SAADE: I will. Thank you, Your Honor.

5 Q BY MS. SAADE: So Ms. Mariscal, now that you have a copy  
6 of Respondent's 2 in front of you, is that an accurate print --  
7 copy of the printout you created from the system?

8 A Yes.

9 Q For Ms. Ybarra's schedule for January 10th?

10 A That's correct.

11 JUDGE GIANNOPOULOS: All right, and why don't you hand  
12 that back to me, if you could, number 2, and then we're going  
13 to deal with 12.

14 MS. SAADE: Before I turn to 12, I just do want to  
15 close -- make -- make the record clear.

16 Q BY MS. SAADE: Before you printed out the -- the schedule  
17 for Ms. Ybarra for January 10th, the week of January 10th, did  
18 you make any changes before you printed that out?

19 A No.

20 Q Okay, thank you. If you could please look at Respondent's  
21 12 and tell me what it is?

22 A It looks like the copy of our schedule for the week  
23 starting on the 17th for Rachel.

24 Q And is this a copy of a -- of a printout that you created?

25 A No, I pulled this from our scheduling system.

1 Q It's something you printed out from the scheduling system?

2 A Correct.

3 Q Did you make any changes before you printed it out?

4 A No.

5 MS. SAADE: I move to admit Respondent's 12, Your Honor.

6 JUDGE GIANNOPOULOS: All right. Any objections, General  
7 Counsel?

8 MS. GARFIELD: No objection, Your Honor.

9 JUDGE GIANNOPOULOS: All right. From the Union?

10 MS. MULTHAUP: No.

11 JUDGE GIANNOPOULOS: All right. 12 is admitted.

12 **(Respondent Exhibit Number 12 Received into Evidence)**

13 MS. SAADE: Thank you.

14 Q BY MS. SAADE: At any point since January 1, 2022, have  
15 you advised any partner at the Broadway and Denny store that  
16 they could not get time off to testify at an NLRB hearing?

17 A No.

18 Q Did you, at any point, advise a partner at the Broadway  
19 and Denny store that they -- that in order to get time off to  
20 testify at an NLRB hearing, that they had to secure coverage  
21 for their shift?

22 A I'm sorry. Can you ask that one more time?

23 Q Did you, at any point in time, advise a partner at the  
24 Broadway and Denny store that they could not get time off to  
25 testify at an NLRB hearing unless they secured coverage for

1     their shift?

2     A     No, that's not something that came up.

3     Q     Does -- does Starbucks have a policy about how to handle  
4     requests for time off for civic duty?

5     A     Yeah, it is something that is an excused absence if you  
6     have a subpoena, or you are called for jury duty. We just ask  
7     that, you know -- to give us as much advanced notice as  
8     possible and to at least help us try and find coverage for your  
9     shift.

10    Q     Did -- did Halley Hager ever mention to you in January of  
11    2022 that anyone had asked for time off in order to testify at  
12    a hearing?

13           MS. GARFIELD:  Objection.  Objection.

14           JUDGE GIANNOPOULOS:  No, I -- I will allow it.

15           Did you hear that?  Did Halley Hager ever tell you that  
16    one of your staff members had asked for time off to testify at  
17    a hearing?

18           THE WITNESS:  No.

19           JUDGE GIANNOPOULOS:  Okay.

20    Q     BY MS. SAADE:  Did anyone -- did Ms. Ybarra ever come to  
21    you and ask you about Starbucks' policy for time off to serve  
22    as a witness in a legal proceeding?

23    A     No.

24    Q     Based on your experience as a store manager, under what  
25    circumstances could a partner be coached or disciplined under



1 the attendance policy?

2 A For no call, no shows, arriving late, you know, multiple  
3 times, calling out and not helping find coverage for the shift.

4 Q When a partner no calls, doesn't call ahead and doesn't  
5 show up for their shift, does it impact store operations?

6 A Yes, absolutely.

7 Q How so?

8 A Well, it depends on their role. If it's a shift  
9 supervisor who is holding keys, their -- we can't actually have  
10 the store open without a key holder in the store due to their  
11 responsibility as far as managing the safe and money, the  
12 alarm, and the safety of the store.

13 JUDGE GIANNOPOULOS: I have a question for you, ma'am.  
14 You just said that one of the reasons you can get disciplined  
15 under the attendance policy is for calling out and not finding  
16 coverage on your shift.

17 THE WITNESS: Right.

18 JUDGE GIANNOPOULOS: So let's say I'm sick and I call -- I  
19 call you up and I say, hey, I'm sick, I'm calling out.

20 THE WITNESS: Um-hum.

21 JUDGE GIANNOPOULOS: Is -- is it -- is your testimony then  
22 that I have to find, even if I'm sick, coverage for my shift?

23 THE WITNESS: No, we actually have a separate sick time  
24 policy. So if you're calling out sick, you are not obligated  
25 to find coverage.

1 JUDGE GIANNOPOULOS: So -- so when you say calling out and  
2 not cov -- call -- not co -- not finding coverage for your  
3 shift, what do you mean?

4 MS. SAADE: I'd like to object because I -- I -- I don't  
5 know that that was her testimony, Your Honor.

6 JUDGE GIANNOPOULOS: That was her testimony. Yes, it was.

7 MS. SAADE: I --

8 JUDGE GIANNOPOULOS: What -- what did you mean by that?

9 THE WITNESS: I --

10 JUDGE GIANNOPOULOS: Was that not what you said?

11 THE WITNESS: What I meant is if I'm calling out because I  
12 have a concert that I want to go to and I didn't find someone  
13 to work --

14 JUDGE GIANNOPOULOS: Okay, so if it's an unexcused --  
15 something that Starbucks doesn't view as an excused absence --

16 THE WITNESS: Yes.

17 JUDGE GIANNOPOULOS: -- you need to then find coverage for  
18 your shift?

19 THE WITNESS: Correct.

20 JUDGE GIANNOPOULOS: Okay, all right. Go ahead.

21 MS. SAADE: Thank you.

22 Q BY MS. SAADE: Does Starbucks have any separate rules or  
23 require more of -- more documentation or -- or steps to be  
24 taken by partners if they want time off to attend an NLRB-  
25 related hearing?

1 A No, it's the same as a civic -- civic duty or jury duty.

2 Q And have you personally ever imposed additional  
3 responsibilities or -- or steps on your Broadway and  
4 Denn -- Denny's partners in order for them to get time off to  
5 attend a hearing?

6 A No.

7 Q And are -- do you have any reason to believe that any  
8 other manager that's been covering your store at Broadway and  
9 Denny imposed any additional obligations on partners if they  
10 wanted time off?

11 MS. GARFIELD: Objection.

12 JUDGE GIANNOPOULOS: Calls for speculation. You can --  
13 you can ask if anyone has -- has told her, but that does call  
14 for speculation.

15 MS. SAADE: I think I -- I asked the --

16 Q BY MS. SAADE: I guess, has anybody told you that?

17 JUDGE GIANNOPOULOS: You said, do you believe.

18 Q BY MS. SAADE: I think, are you aware?

19 A Not that I'm aware of.

20 JUDGE GIANNOPOULOS: Okay.

21 MS. SAADE: Thank you. I have no other questions.

22 Thank you, Ms. --

23 JUDGE GIANNOPOULOS: All right. General Counsel, are you  
24 ready, or did you need some time?

25 MS. GARFIELD: Your Honor, just give me a few minutes, if

1     you don't mind, to --

2             JUDGE GIANNOPOULOS: All right. We'll take -- how's --  
3     I'll -- how's ten minutes? We'll take five or ten minutes.

4             Ma'am, you can get up and stretch your legs. There's a  
5     sequestration order in place, so don't talk about your  
6     testimony with anyone.

7             Yeah, you can just set that up here. Thank you.

8             And we'll take a ten-minute break.

9             So Bruce, let's go off the record.

10     (Off the record at 9:34 a.m.)

11             JUDGE GIANNOPOULOS: Have a seat. You're still under  
12     oath.

13             And I'm sorry. I should have given you some water.

14             THE WITNESS: Oh, thank you. Thank you.

15             JUDGE GIANNOPOULOS: There you go. All right.

16             Go ahead, General Counsel.

17             MS. GARFIELD: Thank you very much, Your Honor.

18                             **CROSS-EXAMINATION**

19     Q     BY MS. GARFIELD: Good morning, Ms. Mariscal?

20     A     Good morning.

21     Q     I -- my name's Alice Garfield. I work for the Labor  
22     Board, okay?

23     A     Okay.

24     Q     And I'm going to just ask you some questions about fo --  
25     to follow up on the questions that Ms. Saade asked you, okay?

1 A Okay.

2 Q Okay, so first, I -- I would like to discuss these  
3 buttons?

4 A Okay.

5 Q Is it correct that you counseled or told --

6 MS. GARFIELD: Strike that.

7 Q BY MS. GARFIELD: Is it correct that you told Rachel  
8 Ybarra on two occasions that she could not give buttons out  
9 during work time? Is that correct?

10 A I can only recall one occasion, after the second time I  
11 observed.

12 Q Okay, fair enough, and do you recall when the second time  
13 occurred?

14 A I don't remember.

15 Q Okay. Do you remember how soon after the first time it  
16 was? Was --

17 MS. SAADE: Objection. Asked and answered already.

18 JUDGE GIANNOPOULOS: Well, she said she doesn't recall --  
19 she's just trying to focus in her memory, as you did, whether  
20 it was one day, two days. Overruled.

21 MS. GARFIELD: Thank you.

22 Q BY MS. GARFIELD: Do -- okay. Understand -- do you -- was  
23 the second occasion on the same week of the first occasion?

24 MS. SAADE: Objection. Asked and answered.

25 JUDGE GIANNOPOULOS: Overruled.

1 A I -- I want to say that it was within that same week, yes.

2 Q BY MS. GARFIELD: Within the same week. Okay, and on the  
3 second occasion, can you describe what Rachel did, what you  
4 observed her doing vis-a-vis the buttons?

5 A Yeah. We were on the floor. I, you know -- when -- I was  
6 standing close to where the -- we can greet our customers that  
7 walk in the store. We observed someone walk in, but they  
8 didn't approach us to order a drink or come in and -- and pick  
9 up a mobile order. I noticed they kind of did some type of,  
10 like, hand signal with each other, Rachel and the person that  
11 came in the store, and then they sat her in the corner.

12 Shortly after, Rachel was sent on their ten-minute break.  
13 And I saw that they went to the back, came back with a big bag  
14 of buttons, and then went and talked to that person in the  
15 lobby and gave it to them.

16 Q BY MS. GARFIELD: Okay, so I -- I understand that. I'm --  
17 I want to be respectful, ma'am, okay? I want be --

18 A Yeah.

19 Q So when you say they went to the back, you're referring to  
20 Rachel?

21 A That's correct.

22 Q Is that correct?

23 A Yes.

24 Q She didn't take the other individual to the back?

25 A No.

1 Q Okay, fair enough. Did you recognize the other  
2 individual?

3 A I -- no, I did not.

4 Q Okay, and when Ms. Ybarra gave the other individual these  
5 buttons, she was on a ten minute, correct?

6 A Correct.

7 Q And after that incident, that's when you counseled her,  
8 correct?

9 A That's when I --

10 Q Counseled her or told her that she should not do it?

11 A Yeah.

12 Q There --

13 JUDGE GIANNOPOULOS: There was some -- there was some  
14 testimony yesterday about bags of buttons. So Respondent's 7,  
15 is this what the buttons looked like. When you say a bag of  
16 buttons, is that --

17 THE WITNESS: Yes.

18 JUDGE GIANNOPOULOS: -- about what they looked like?

19 THE WITNESS: Yes.

20 JUDGE GIANNOPOULOS: Okay.

21 Q BY MS. GARFIELD: And what -- okay. On the first occasion  
22 that you saw Rachel Ybarra giving buttons, can you describe  
23 what happened, what you saw?

24 A Yeah, I -- again, we were working on the floor together.  
25 I noticed that Rachel left their position, went to the back of

1 house, and then handed a button over to a customer across the  
2 counter that was waiting for their -- I'm not sure if the  
3 customer was waiting for a mobile order or a cafe order at the  
4 time.

5 Q Fair enough, fair enough. Did you -- how far from -- from  
6 Rachel Ybarra were you in -- by the counter when this occurred?

7 A We -- standing just as close as me and the judge.

8 JUDGE GIANNOPOULOS: So let the record reflect, I don't  
9 know, we're five feet away, maybe, six feet away, something  
10 like that?

11 THE WITNESS: Sure, yeah.

12 Q BY MS. GARFIELD: Did you overhear the conversation  
13 between the customer and Rachel Ybarra?

14 A No, I -- I don't recall what was said. Obviously, it was  
15 during one of our busy times, and it's -- it's pretty loud in  
16 the store.

17 Q Was it in the morning?

18 A That I -- that I remember, it -- it was in the morning,  
19 yes.

20 Q Okay, and was there any -- other than yourself and Rachel,  
21 was there any other barista or employee present during this  
22 busy time?

23 A Yeah, yeah, we usually have anywhere from five to seven  
24 people on at the time.

25 Q All right, so as best you can recall, how many people



1 would have been behind -- and you -- do you refer to it as a  
2 bar or at the register?

3 A Yeah, so the -- the line --

4 Q Yes?

5 A -- the back of the line, yeah. I would say probably at  
6 least five or six.

7 JUDGE GIANNOPOULOS: And is that a normal staffing day,  
8 that you have five or six people?

9 THE WITNESS: During the busy time of the day.

10 JUDGE GIANNOPOULOS: And does that include you when you  
11 say five or six?

12 THE WITNESS: Yes.

13 JUDGE GIANNOPOULOS: Okay. Are you at the store,  
14 generally, every day, or is a store manager there, generally,  
15 every day?

16 THE WITNESS: Not every day, at least five of the seven  
17 days.

18 JUDGE GIANNOPOULOS: Okay, so what days would you, like,  
19 not show up?

20 THE WITNESS: I would -- I usually will take Sunday and  
21 Wednesday off.

22 JUDGE GIANNOPOULOS: Okay.

23 THE WITNESS: Or you know, I -- it varies.

24 JUDGE GIANNOPOULOS: Are they just generally, like, the  
25 days you deem not as busy, or?

1 THE WITNESS: Yeah, yeah.

2 JUDGE GIANNOPOULOS: Okay.

3 THE WITNESS: Or depending on the business needs, if --

4 JUDGE GIANNOPOULOS: Yeah, yeah.

5 THE WITNESS: Um-hum.

6 JUDGE GIANNOPOULOS: I mean, I'm assuming different stores  
7 have different patterns of business --

8 THE WITNESS: Correct.

9 JUDGE GIANNOPOULOS: -- depending on where they are.

10 THE WITNESS: Yes.

11 JUDGE GIANNOPOULOS: All right, and I'm sorry. The --  
12 there was some -- there was some discussion yesterday, but I've  
13 not -- I've never been into your store. So could you just give  
14 us a general kind of overview of what the store looks like,  
15 maybe how big it is, what the area behind the bar looks like,  
16 maybe how big that is, and then what the area behind the bar,  
17 behind those swinging doors, looks like --

18 THE WITNESS: Yeah.

19 JUDGE GIANNOPOULOS: -- and how big that is.

20 THE WITNESS: I would say it -- the store looks like a  
21 long rectangle, and you come in one corner. Initially, you can  
22 walk straight down to the register, but that also walks down  
23 the entire line where we make all of our coffees and we hand  
24 out our drinks. On the other -- on the other side is just  
25 seating. The -- behind the line is probably a little bit

1 bigger than this area here.

2 JUDGE GIANNOPOULOS: All right, so I don't know, it's  
3 maybe another six feet long?

4 THE WITNESS: Yeah.

5 JUDGE GIANNOPOULOS: Five feet long?

6 THE WITNESS: And obviously, we have fridges on both  
7 sides, so we have a little bit of walk space between us.

8 JUDGE GIANNOPOULOS: Between the front of the bar and the  
9 fridges?

10 THE WITNESS: Right.

11 JUDGE GIANNOPOULOS: Yeah, okay.

12 THE WITNESS: Yeah, and then, you have to walk towards the  
13 very end of the rectangle, around the corner, to get --

14 JUDGE GIANNOPOULOS: And let the record reflect the  
15 witness is showing -- is moving with her left hand towards her  
16 left, and then put her finger towards the back.

17 And that's where you go through the double doors, or the  
18 swinging doors?

19 THE WITNESS: The swinging door, yeah, to go to the back  
20 of house. And this is just a shared space that we use for all  
21 of our product, some more fridges and freezers, obviously,  
22 our -- our dishwashing area. And it also has some of our  
23 electronic equipment, and my desk.

24 JUDGE GIANNOPOULOS: Okay, and you -- you have a desk,  
25 actually, desk space there?

1 THE WITNESS: Yes.

2 JUDGE GIANNOPOULOS: And are there -- do employees have  
3 lockers back there?

4 THE WITNESS: They have day lockers where they can set  
5 their bags or a purse or something.

6 JUDGE GIANNOPOULOS: Okay. Are these kind of open spa --  
7 open space? They're not like the old style. I think of  
8 lockers like when I went to high school, like you shut it and  
9 you put a lock on it.

10 THE WITNESS: It's -- you -- you technically could put a  
11 lock on it, but they don't have locks on them, yeah, um-hum.

12 JUDGE GIANNOPOULOS: I see, okay. All right, great. And  
13 is there any -- are there tables back there to sit?

14 THE WITNESS: There -- we set up one small table so that  
15 the partners can bring their -- their water bottles, or you  
16 know, set their drink down. And they can pull up a chair and  
17 sit. I mean, it's a very small table, so it's not -- yeah.

18 JUDGE GIANNOPOULOS: Okay, but you -- there are chairs, a  
19 couple of chairs, back there, as well?

20 THE WITNESS: Yeah.

21 JUDGE GIANNOPOULOS: All right.

22 THE WITNESS: So there's my office chair, and then --

23 JUDGE GIANNOPOULOS: Okay, great. And then, where is the  
24 bathroom?

25 THE WITNESS: Kind of in that same -- around the corner on

1 the opposite side of the door, the swinging door. There's a  
2 partner --

3 JUDGE GIANNOPOULOS: Okay. Is there a separate bathroom  
4 for partners?

5 THE WITNESS: That's correct.

6 JUDGE GIANNOPOULOS: Okay, as opposed to -- I'm assuming  
7 you have another bathroom for customers?

8 THE WITNESS: Yes, yes.

9 JUDGE GIANNOPOULOS: All right, great. Thank you very  
10 much.

11 THE WITNESS: Sure.

12 JUDGE GIANNOPOULOS: All right. Go ahead, General  
13 Counsel.

14 MS. GARFIELD: Thank you, Your Honor.

15 Q BY MS. GARFIELD: I want to direct your attention to the  
16 first time that you were aware that Rachel Ybarra was passing  
17 buttons out to the customer?

18 A Um-hum.

19 Q And I think you told us a little about that -- that  
20 dedication, but tell me, do you recall what position Ms. Ybarra  
21 was -- had that -- was assigned that day?

22 A That I can recall, it was -- I was standing near them. So  
23 normally, I would stand at the hand-off area where I would  
24 pass -- pass off the drinks, or you know, package up our  
25 deliveries. So it would be one of the bar positions.

1 Q Okay. Is it -- isn't it correct to -- that Ms. Ybarra,  
2 on -- on -- on the day that the incident occurred with the  
3 customer getting buttons, isn't it correct to say that Ms.  
4 Ybarra was in -- was, I guess, what you'd call CS, customer  
5 service?

6 A It's likely. I mean, we -- they can perform different  
7 roles throughout the day.

8 Q Okay, fair enough, so can you describe to us what the  
9 customer service person does?

10 A The customer support person will help stock everything on  
11 the line. They will go out to the lobby and clean tables,  
12 gather trashes, brew coffee. Or they can go to the back and  
13 bring us ice or something that we need stocked up front.

14 Q Okay, so the customer support person is kind of, like,  
15 going to make sure that everything is correct?

16 A Right?

17 Q And customer support person goes to the back to get  
18 supplies or whatever you might -- might have you?

19 A Yes.

20 Q Okay. When the customer support person goes to the back  
21 to get supplies, does the customer support person ask your  
22 permission?

23 A No.

24 Q Okay. When the customer support person goes to the back  
25 to -- to -- to use the restroom, do they ask your permission?

1 A They don't ask for permission, but they do let us know and  
2 make us aware that they are going to be unavailable for a sec.  
3 Or they -- if they're going to go to the back and wash some  
4 dishes or whatever, they will let us know, hey, I'm going to  
5 the back --

6 Q Okay, but --

7 A -- I'll be unavailable for a few minutes.

8 Q For a few minutes?

9 A Yeah, or whatever -- whatever the case is, yeah.

10 Q Fair enough, but when a customer support person is going  
11 to be unavailable for 20 seconds, 30 seconds, that wouldn't  
12 necessitate the person to have to ask you, can I go to the  
13 back?

14 A That's correct.

15 MS. SAADE: Objection.

16 JUDGE GIANNOPOULOS: I'm sorry. What was your answer,  
17 ma'am?

18 THE WITNESS: That's correct.

19 JUDGE GIANNOPOULOS: All right, she said that's correct.  
20 Your objection is on what basis?

21 MS. SAADE: Because I believe she said it depends on the  
22 circumstances. That was her earlier testimony, and I --

23 JUDGE GIANNOPOULOS: Overruled. You can -- you --

24 MS. SAADE: felt like it misconstrued the testimony.

25 JUDGE GIANNOPOULOS: Overruled. You can -- you can

1 address that in redirect if you need to.

2 MS. SAADE: Thank you.

3 JUDGE GIANNOPOULOS: When you say they let -- they let you  
4 know, I don't know, do they just -- do people just yell out? I  
5 mean, do they actually walk up to you -- say you're doing  
6 something. Do they walk up to you and say, excuse me, ma'am,  
7 or Ms. Ybarra, I need to go wash some dishes? Or they just  
8 yell out, washing dishes?

9 THE WITNESS: Yeah, they're going to usually let the  
10 person that's running the floor --

11 JUDGE GIANNOPOULOS: Uh-huh.

12 THE WITNESS: -- the play caller, whether that's myself or  
13 another key holder, hey, I'm going to run to the back and do a  
14 load of dishes.

15 JUDGE GIANNOPOULOS: Okay, all right.

16 THE WITNESS: Yeah, it's --

17 MS. GARFIELD: Okay, but let me -- let me follow up on  
18 that question if you don't mind.

19 Q BY MS. GARFIELD: A load of -- how long does it usually  
20 take to do a load of dishes?

21 A I -- I don't know, a couple of minutes. It just depends  
22 on how many dishes.

23 Q A couple of minutes, okay.

24 A Sure.

25 Q Fair enough.



1 JUDGE GIANNOPOULOS: And key holder, you used that term.  
2 Just explain that to me.

3 THE WITNESS: That is a shift supervisor or manager.

4 JUDGE GIANNOPOULOS: I see, okay.

5 THE WITNESS: So it's the person in charge of running  
6 the -- the floor at the time.

7 JUDGE GIANNOPOULOS: Okay, very good. Thank you.

8 Q BY MS. GARFIELD: All right, so is it your testimony --  
9 let me -- let me make sure I understand. Is it this -- your  
10 testimony that, in ne -- in neither occasion that you observed  
11 Rachel Ybarra giving buttons, you overheard the conversation  
12 between her, Rachel Ybarra, and the person to whom she was  
13 giving buttons?

14 A Right.

15 Q Is that your testimony?

16 A That is correct.

17 Q You didn't overhear it?

18 A I didn't hear.

19 Q Either one, either one?

20 JUDGE GIANNOPOULOS: On the second occasion, did Ms.  
21 Ybarra ever tell you that the person that she gave the buttons  
22 to was actually another Starbucks employee?

23 THE WITNESS: No.

24 JUDGE GIANNOPOULOS: Okay.

25 Q BY MS. GARFIELD: But again, your testimony is that only

1 after this -- witnessing the second incident did you talk to  
2 Ms. Ybarra?

3 A Yes.

4 Q And that was the incident where she was on her ten-minute  
5 break, correct?

6 A Right. Right, that's correct.

7 Q Okay. That was not the incident that --

8 JUDGE GIANNOPOULOS: Move on.

9 MS. GARFIELD: Okay.

10 JUDGE GIANNOPOULOS: I have no --

11 MS. GARFIELD: Okay.

12 JUDGE GIANNOPOULOS: She's -- she's said it now multiple  
13 occasions.

14 MS. GARFIELD: Fine, sorry.

15 JUDGE GIANNOPOULOS: Next question.

16 MS. GARFIELD: Your Honor, I have only one copy, but this  
17 was produced pursuant to subpoena.

18 JUDGE GIANNOPOULOS: All right. Let's take a look at it.  
19 Let me -- let me -- let me look at it. Why don't you go make  
20 copies? Why don't you go make copies, or print it out, or do  
21 something?

22 MS. SAADE: Your Honor, I think I -- if I can see it, I  
23 might have extra copies and save us --

24 JUDGE GIANNOPOULOS: Yeah, okay. Show -- yes, very good,  
25 absolutely.

1 MS. GARFIELD: Thank you.

2 MS. SAADE: Oh, I don't know if I have both pages.

3 (Counsel confer)

4 JUDGE GIANNOPOULOS: All right. Why -- why don't we take  
5 a quick break? Go make some copies so we all know what we're  
6 talking about, we're all on the same page. And we have, you  
7 know -- you made an objection earlier or wanted to speak --

8 MS. GARFIELD: Yes.

9 JUDGE GIANNOPOULOS: -- earlier about this issue. So  
10 we'll take a break.

11 MS. GARFIELD: I'll be right back, Your Honor.

12 JUDGE GIANNOPOULOS: Okay, let's take a break.

13 Ms. Mariscal, we're just taking a break. You can sit  
14 here. You cannot sit here. The sequestration order is still  
15 in place. You can get up and stretch your legs if you want.  
16 Sorry for the delay.

17 So off the record, Bruce.

18 (Off the record at 9:58 a.m.)

19 JUDGE GIANNOPOULOS: The witness is back on the -- on the  
20 witness stand.

21 Go ahead, General Counsel.

22 MS. GARFIELD: Thank you, Your Honor, and I want to  
23 apologize for the time I took.

24 JUDGE GIANNOPOULOS: No need to apologize.

25 MS. GARFIELD: Okay. I -- I went up to make copies, and I

1 reconsidered, so thank you very much.

2 **RESUMED CROSS-EXAMINATION**

3 Q BY MS. GARFIELD: Let me -- let me ask you, Ms. -- Ms.  
4 Mariscal, you've worked as a -- as a Starbucks store manager  
5 for three years; is that correct?

6 A Yes.

7 Q Okay, and throughout that time, have you worked at the  
8 Broadway and Denny store?

9 A I've worked at that store for two years and nine months.

10 Q Okay. You hired Rachel Ybarra; is that correct?

11 A That's correct.

12 Q Okay, so the two of you have worked together for some  
13 time?

14 A Yeah, that's correct.

15 Q Before you worked at Starbucks, where did you work?

16 A I worked for AT&T in Denver and here in Seattle.

17 Q So -- so were you ever --

18 MS. GARFIELD: Let me strike that.

19 Q BY MS. GARFIELD: During your in with Starbucks, have you  
20 ever been a barista?

21 A No.

22 Q Okay, and in your capacity as a store manager, you  
23 assisted during the representation hearing in January of 2022;  
24 is that correct?

25 A That's correct.



1 Q Okay. Were you called as a witness?

2 A Yes.

3 Q Do you remember the date you were called as a witness?

4 A I want to say the -- January 13.

5 JUDGE GIANNOPOULOS: And when you say you assisted, did  
6 that mean that you sat at counsel's table with the attorneys?  
7 Or what does that -- I don't understand what that meant. It  
8 was kind of vague to me, the question about you assisted.

9 THE WITNESS: I was called as a witness and was  
10 questioned.

11 JUDGE GIANNOPOULOS: Okay, but you didn't sit there all  
12 day through the entire hearing, did you, with the -- with  
13 the -- with the -- with the people -- did you attend every day  
14 of the hearing?

15 THE WITNESS: No, I only attended the days when I was  
16 called.

17 JUDGE GIANNOPOULOS: As a witness?

18 THE WITNESS: Yeah, and it was a Thursday and Friday.

19 JUDGE GIANNOPOULOS: All right, and I guess the -- the  
20 question was just vague. I just didn't understand it. Next  
21 question.

22 Q BY MS. GARFIELD: Okay, so you only attended Thursday and  
23 Friday, correct?

24 A Yeah.

25 Q Fair enough, and that was a Zoom hearing?

1 A That's correct.

2 Q And that was the hearing to -- that was about the election  
3 at your store, correct?

4 A Yes.

5 Q Okay, and you attended on the 13th and 14th --

6 MS. GARFIELD: Strike that.

7 Q BY MS. GARFIELD: You attended on Thursday and Friday?

8 A Correct.

9 MS. GARFIELD: Okay. I believe that we have, as one of  
10 the exhibits, a calendar.

11 JUDGE GIANNOPOULOS: Calendar for January.

12 MS. GARFIELD: Yes, calendar for January.

13 Q BY MS. GARFIELD: Or maybe you just can recall. Do  
14 you -- do you recall whether the dates that you attended the  
15 hearing were Thursday and Friday, 13 and 14?

16 A Yeah, that sounds right.

17 Q They were?

18 A Yes.

19 Q Yeah, thank you. Okay, and that was -- oh, so all right.  
20 Now, during that time, and during the Zoom hearing, from which  
21 location did you participate in the Zoom hearing as a -- as a  
22 witness?

23 A I took it at our Seattle support center for Starbucks.

24 Q And you were outside the store, correct?

25 A That's correct.



1 Q And during those days, Halley Hager was in charge of the  
2 store; is that correct?

3 A No.

4 Q Is it your testimony that you were still in charge of the  
5 store?

6 A Yeah, she was just working my scheduled covered shift.

7 JUDGE GIANNOPOULOS: Say that, you know -- that -- it --  
8 it was just a vague question. But Halley Hager, while you were  
9 participating in the NLRB hearing --

10 THE WITNESS: Right.

11 JUDGE GIANNOPOULOS: Halley Hager was at the store as the  
12 acting store manager or whatever you want to call the title?

13 MS. SAADE: Objection.

14 JUDGE GIANNOPOULOS: On what? On -- yeah, I'm sorry. On  
15 what basis?

16 MS. SAADE: Well, you fini -- you cured it by saying, or  
17 what title. I appreciate it.

18 JUDGE GIANNOPOULOS: Whatever title. I don't know what  
19 title -- what --

20 MS. SAADE: Yeah, thank you. I just --

21 JUDGE GIANNOPOULOS: She was at the store, in charge?

22 THE WITNESS: Sure. I mean, she was the manager presence,  
23 yeah.

24 JUDGE GIANNOPOULOS: The manager present at the store.

25 THE WITNESS: Yeah.

1 JUDGE GIANNOPOULOS: I'm not saying that somehow that, you  
2 know, you were relieved of your duties. I'm just saying  
3 that --

4 THE WITNESS: Okay.

5 JUDGE GIANNOPOULOS: -- that -- that somebody -- she  
6 filled in your -- she was at the location?

7 THE WITNESS: Correct.

8 JUDGE GIANNOPOULOS: All right, yeah, and -- and I totally  
9 forgot that we're doing people -- I guess they're still doing  
10 the R-case hearings on Zoom. But when I asked you if you  
11 participated, what I meant when I said, were you present in the  
12 courtroom, I guess the virtual courtroom. But you only  
13 participated in the hearing on the days you testified?

14 THE WITNESS: Just on the days that I was testifying --

15 JUDGE GIANNOPOULOS: All right, thank you.

16 THE WITNESS: -- and the times -- yes.

17 JUDGE GIANNOPOULOS: All right.

18 Q BY MS. GARFIELD: Fair enough, fair enough. Okay, and so  
19 again, you were not at the store on the 13th or the 14th,  
20 correct?

21 A That's correct.

22 Q Okay. Do you know -- is -- it's correct to say that Ms.  
23 Ybarra, if you know, was a witness in the representation  
24 hearing, too?

25 A I didn't know who was a witness or not, no.



1 Q You don't know, okay. And you -- and you never found out  
2 that Rachel Ybarra testified during the representation hearing;  
3 is that your testimony?

4 A I -- I don't re --

5 JUDGE GIANNOPOULOS: Now, I'm assuming that you found out  
6 at some point because you're here today, but.

7 THE WITNESS: Yeah.

8 JUDGE GIANNOPOULOS: At the ti -- when did you first learn  
9 that Ms. Ybarra actually testified in that hearing?

10 THE WITNESS: I would say afterwards. I didn't -- I  
11 didn't know who was testifying or not.

12 JUDGE GIANNOPOULOS: Okay.

13 THE WITNESS: I was never made aware of that.

14 MS. GARFIELD: Fair enough.

15 JUDGE GIANNOPOULOS: Afterwards, meaning after the hearing  
16 was completely finished, right?

17 THE WITNESS: That is correct.

18 JUDGE GIANNOPOULOS: Okay.

19 Q BY MS. GARFIELD: And do you recall how you found out that  
20 Ybarra had testified at the hearing?

21 A I don't recall.

22 MS. SAADE: Objection.

23 JUDGE GIANNOPOULOS: Sustained, at least with respect to  
24 attorney-client privilege issues.

25 Q BY MS. GARFIELD: So I understand -- can you confirm that

1 your testimony is your understanding of Starbucks policy is,  
2 regarding jury ser -- jury duty or appearance pursuant to a  
3 subpoena, there is not a need to find a substitute or a -- or a  
4 fill-in on -- on the part of the Starbucks employee? Is that  
5 correct?

6 A Can you rephrase that question? I'm sorry.

7 Q Sure. Is your understanding of the Starbucks policy  
8 on -- you -- you referred to it as civic duty?

9 A Yeah.

10 Q Which -- okay. But I -- I think the policy addresses jury  
11 duty and subpoena, honoring a subpoena. So is your  
12 understanding that, under that policy, there is no need for a  
13 barista or a Starbucks employee to find a replacement?

14 A So it is an unexcused -- or I'm sorry. It is an excused  
15 absence. We do ask that we get eno -- some advance notice so  
16 that we can find coverage, and we ask that they help us make  
17 coverage, but it is not necessary.

18 Q Okay, but that's not part of the policy. You ask, but  
19 that's not part of the policy?

20 MS. SAADE: Objection.

21 JUDGE GIANNOPOULOS: She said it's not necessary.

22 MS. GARFIELD: Okay.

23 JUDGE GIANNOPOULOS: Next question.

24 Q BY MS. GARFIELD: Did you leave instructions on the day  
25 that you were testifying at -- at the representation hearing?

1 Did you leave instructions to your staff that if they had  
2 issues, they should call or text you?

3 A No, I don't recall leaving instructions.

4 MS. GARFIELD: Just give me one second, Your Honor.

5 JUDGE GIANNOPOULOS: Sure.

6 MS. GARFIELD: Just give me one minute, Your Honor.

7 JUDGE GIANNOPOULOS: Sure.

8 Q BY MS. GARFIELD: Ms. Mariscal, when -- when Rachel left  
9 the floor to get -- to get buttons for that customer, did any  
10 customer complain to you about her behavior?

11 JUDGE GIANNOPOULOS: Well, so -- so there's no objection,  
12 but I think that's vague. Like, which customer? We've now  
13 heard two incidents where -- where Rachel has potentially left  
14 the floor to get buttons for -- for what has been identified by  
15 this witness as customers. All right, so which one are we  
16 talking about, the first one --

17

18

19

20 -- or the second one.

21 MS. GARFIELD: I'm -- I'm talking about the first incident  
22 where she was not on her ten-minute break.

23 JUDGE GIANNOPOULOS: Okay.

24 MS. GARFIELD: Do you want me to repeat the question?

25 THE WITNESS: Yes, please.



1 JUDGE GIANNOPOULOS: Repeat the question. And now, we're  
2 talking about in your mind, do you know which incident we're  
3 talking about?

4 THE WITNESS: Yes.

5 JUDGE GIANNOPOULOS: Okay.

6 MS. GARFIELD: Fair enough.

7 Q BY MS. GARFIELD: During that incident, when she -- when  
8 Rachel left the floor to get the buttons for the customer, did  
9 any customer complain that they weren't being attended to?

10 A No.

11 Q Did you observe any customer who was left unattended to  
12 when she left the floor on the first incident?

13 A Not that I recall.

14 Q Thank you.

15 MS. GARFIELD: I'm -- I'm -- I'm -- no further questions  
16 at this time, Your Honor.

17 JUDGE GIANNOPOULOS: Okay.

18 From the Union.

19 MS. MULTHAUP: Just a couple.

20 JUDGE GIANNOPOULOS: Sure.

21 **CROSS-EXAMINATION**

22 Q BY MS. MULTHAUP: Hi, Ms. Mariscal. I'm Marina, I'm  
23 counsel for Workers United, the Union.

24 A Hello.

25 Q I just have a couple brief questions. You testified with

1 Ms. Saade about the partner availability form; do you remember  
2 that?

3 A Yes.

4 Q And you described it -- or do you remember -- can you  
5 describe again what -- what your understanding of that form is?

6 A Yeah. The form is given to all the partners upon -- when  
7 they are hired or they can fill out a new one whenever things  
8 change, like school schedules and stuff. And they basically  
9 will state on there when they're available to work. And we  
10 will enter that into the system. So when I'm scheduling them,  
11 it will -- the shifts won't get scheduled on during that time  
12 when they're not available.

13 Q Okay. Is the partner availability form used to request  
14 one-time-off absences?

15 A No. This is just a general availability of, you know, for  
16 week -- for scheduling week after week. There is a system that  
17 they can use to request time off.

18 Q That -- is -- is that the electronic system that you were  
19 referring to when --

20 A Yes.

21 Q -- you referred to from your laptop?

22 A It's called Starbucks Partner Hours.

23 Q Okay. And does Starbucks Partner Hours -- do partners use  
24 that to request time off within the -- within the time period  
25 of the schedules that have already posted?

1 A No.

2 Q So you can only use the time-off app to request time off  
3 at least three weeks in advance --

4 A Correct.

5 Q -- correct? Okay. Thank you. And are you familiar with  
6 the phrase "store manager proxy"?

7 A Yes.

8 Q Can you describe what -- what your understanding of that  
9 to be?

10 A Yeah. So if I am going to be taking a vacation or a long  
11 weekend, I will ask another store manager to be a point of  
12 contact for my partners, so that way I can take off -- my time  
13 off, if --

14 Q And is --

15 A -- necessary.

16 Q -- is store man -- manager proxy a commonly used Starbucks  
17 phrase?

18 A Yes.

19 Q Is that the official way to designate another store  
20 manager to manage the store when you're going to be out of town  
21 or away.

22 A Yes. Or be at least a point of contact. They don't  
23 necessarily always work in the store, but they are just  
24 available if partners have any questions or if there's an  
25 emergency.

1 Q Okay. And was Halley Hagar your store manager proxy when  
2 you were testifying at the R hearing in January?

3 A When I was testifying, she was just a manager presence at  
4 my store and she was literally covering my part of the shift  
5 that I was -- that I was working the store, on the floor.

6 Q But your testimony is she was not your store manager  
7 proxy?

8 A Not during the hearing. I was still available, you know,  
9 for -- for partners, but I didn't designate her for that -- for  
10 those days. I wasn't sure how long I was going to be --

11 JUDGE GIANNOPOULOS: But is it --

12 A -- testifying.

13 JUDGE GIANNOPOULOS: -- is it like -- is that an official  
14 designation or is it just the term that's kind used around?

15 THE WITNESS: It's more of a term. Yes.

16 JUDGE GIANNOPOULOS: Okay. Like I -- I -- you know, I was  
17 watching the news today and they had the -- the queen, right?  
18 And I saw the royal family walking around. And so when I think  
19 of, you know, no one relieves you of your duty as king of the  
20 store, right? When you -- when you left to go to the -- to the  
21 R case hearing, correct?

22 THE WITNESS: Right.

23 JUDGE GIANNOPOULOS: But then again, when you go, I don't  
24 know, you need to take a day off and you need to run somewhere,  
25 you're taking some leave, you're still king, queen, whatever

1     you want, of the store?

2             THE WITNESS:   Yes.

3             JUDGE GIANNOPOULOS:   Right?   Nobody, like, relieves you of  
4     these duties?

5             THE WITNESS:   Right.

6             JUDGE GIANNOPOULOS:   Yeah, okay.   We've got too much --  
7     you know, it's like on the news constantly.   Anyway -- all  
8     right.   Next question.

9     Q     BY MS. MULTHAUP:   Is it your testimony that you were  
10    available to answer partner's questions while you were  
11    testifying at the R hearing?

12    A     During those -- those days, yes.   So during my breaks, I  
13    would answer any calls or questions that they may have.

14    Q     Did the partners know when you were actively testifying  
15    and when you were on break?

16    A     No.

17             MS. MULTHAUP:   No further questions.

18             JUDGE GIANNOPOULOS:   Okay.   All right.

19             Ms. Saade, do you need some time?

20             MS. SAADE:   Yeah, if I could just have --

21             JUDGE GIANNOPOULOS:   Yeah, you can have some time.   And

22    also, I know I cut you off on the issue of the stickers --

23             And this goes for all Counsel, you need to make an offer  
24    of proof.   I can't stop anyone from making an offer of proof.

25    But no one has asked to make offer of proofs.   And so, you



1 know, you can try to revisit that if you want, or you can ask  
2 to make an offer of proof on what you expect the testimony to  
3 be. But af -- you know, to preserve whatever wan -- you want  
4 on your record. But everyone needs to remember that. That's  
5 how it works. If you think that an objection has been  
6 improperly sustained, or I've asked you to move on and you  
7 think it's improper, you need ask to make an offer of proof.  
8 So with that, we'll take ten minutes.

9 Is that good? 10 minutes, Ms. Saade, or do you want 15?

10 MS. SAADE: No, ten is fine. Thank you.

11 JUDGE GIANNOPOULOS: All right. We'll take ten-minute  
12 break. We'll go off the record.

13 Ms. Mariscal, don't discuss your testimony with anyone --  
14 (Off the record at 10:20 a.m.)

15 JUDGE GIANNOPOULOS: All right. The witness is back on  
16 the witness stand.

17 Go ahead, Ms. Saade.

18 MS. SAADE: Thank you.

19 **REDIRECT EXAMINATION**

20 Q BY MS. SAADE: Ms. Mariscal, when you attended the hearing  
21 via Zoom on January 13th and 14th, did you still perform any  
22 job duties related to the Broadway and Denny store on those  
23 days?

24 A Yes. I still had my laptop, so I was observing the  
25 business, sales, the staffing levels, and answering any

1 questions that, you know, any of the partners might have.

2 Q So when -- and -- and did you return to the store on the  
3 14th after your testifying ended on a Friday?

4 A No.

5 Q There's been a number of questions to you about what day  
6 you may have had this conversation with Ms. Ybarra. Is there  
7 anything that would help refresh your recollection as to when  
8 that conversation took place?

9 MS. GARFIELD: Objection.

10 JUDGE GIANNOPOULOS: On what basis?

11 MS. GARFIELD: The witness testified that she had it after  
12 the second -- second conversation.

13 JUDGE GIANNOPOULOS: Well, that's all right. She's asking  
14 her if -- if something would refresh her recollection. I  
15 remember from law school you can refresh a witness'  
16 recollection with anything, like an old shoe. This is --  
17 that's the -- that's what I remember from my evidence  
18 professor. So perhaps an old shoe would refresh your  
19 recollection as to what date that conversation occurred or  
20 something else, and that's all Counsel's asking about.

21 Ms. Saade, go ahead, proceed.

22 MS. SAADE: Well, I think I posed my question.

23 JUDGE GIANNOPOULOS: Is there something that would refresh  
24 your recollection? Do you have something that would perhaps --

25 MS. SAADE: Yes.

1 JUDGE GIANNOPOULOS: -- refresh your recollection?

2 Q BY MS. SAADE: Would a text message exchange that you had  
3 with Ms. Johnna Turvin help refresh your recollection as to --

4 A Yeah, I do recall sending --

5 JUDGE GIANNOPOULOS: Let's take a look at that.

6 MS. SAADE: Thank you.

7 JUDGE GIANNOPOULOS: Is this -- is this the text message  
8 that we were going to make copies of or whatever?

9 MS. SAADE: I think so.

10 JUDGE GIANNOPOULOS: Okay. Let's -- let's take a look --  
11 let's everyone take a look at it.

12 Q BY MS. SAADE: So I've shown you what's been marked as  
13 Respondent's 13. Does this text message help refresh your  
14 memory as to when you may have had the conversation with Ms.  
15 Ybarra about the buttons?

16 A Yeah, this seems to be over -- shortly after I observed  
17 Rachel handing those out in January.

18 Q And do you still have this text message on your phone?

19 A Yes.

20 Q If you looked at your phone, would that help pin down the  
21 date of the text message exchange?

22 A Yes.

23 JUDGE GIANNOPOULOS: All right. Let's take a look at it.  
24 We'll do the same thing. Do you have it with you?

25 THE WITNESS: My phone? Yes.

1 JUDGE GIANNOPOULOS: Yeah. Let me take a look at it.

2 THE WITNESS: Yes.

3 JUDGE GIANNOPOULOS: I don't want anyone else -- unless,  
4 you know, obviously counsel --

5 THE WITNESS: My phone --

6 Q BY MS. SAADE: You can --

7 MS. SAADE: Can she leave the witness stand to grab it,  
8 Your Honor?

9 JUDGE GIANNOPOULOS: Sure. And let's -- so let me just  
10 ask you a question, Ms. -- did you send this, then, to Johnna  
11 who's the district manager?

12 THE WITNESS: Yeah. She was my district manager at the  
13 time.

14 JUDGE GIANNOPOULOS: All right. Why don't you go ahead  
15 and get your phone?

16 THE WITNESS: I'm going to have to --

17 JUDGE GIANNOPOULOS: Sure, that's okay.

18 THE WITNESS: -- scroll, obviously. So here's the date.

19 JUDGE GIANNOPOULOS: Okay.

20 THE WITNESS: This is when I text the message.

21 JUDGE GIANNOPOULOS: Okay. So let the record reflect the  
22 date is Wednesday, January 26th. And that's the date of the  
23 message.

24 Does anyone feel the need that they don't believe me, they  
25 need to confirm what I just said? That's what the text message

1 says. The date that it was sent.

2 Okay. Thank you.

3 MS. SAADE: Thank you. Just put it in your pocket.

4 JUDGE GIANNOPOULOS: We already have the picture in.  
5 Let's just get this text in. Let me just ask a question,  
6 ma'am. The exclamation points on this text, that's from  
7 Johnna?

8 THE WITNESS: Yeah.

9 JUDGE GIANNOPOULOS: Okay. And then your text is in the  
10 blue?

11 THE WITNESS: That's correct.

12 JUDGE GIANNOPOULOS: And then Johnna's text back is in  
13 the -- is in the gray?

14 THE WITNESS: Yes.

15 JUDGE GIANNOPOULOS: All right.  
16 Counsel?

17 MS. SAADE: I move to admit, Your Honor.

18 JUDGE GIANNOPOULOS: All right. Any objections? Now, let  
19 me -- is this you, did you take that photo?

20 THE WITNESS: Yes.

21 JUDGE GIANNOPOULOS: Of the -- okay. Of the button -- the  
22 pattern of the buttons. All right.

23 Any objections from --

24 MS. GARFIELD: Just give me a minute, Your Honor.

25 JUDGE GIANNOPOULOS: Okay.

1           And is that the table you were talking about?  There's a  
2   table back there, people can sit at or something.

3 THE WITNESS: Yeah.

4 JUDGE GIANNOPOULOS: In the back of the room -- back of  
5 the house, I guess?

6 THE WITNESS: Yeah.

7 JUDGE GIANNOPOULOS: Okay.

8 MS. GARFIELD: No objection, Your Honor.

9 JUDGE GIANNOPOULOS: From the Union?

10 MS. MULTHAUP: Can I voir dire?

11 JUDGE GIANNOPOULOS: Yes.

12 VOIR DIRE EXAMINATION

13 Q BY MS. MULTHAUP: Do you remember how long after  
14 witnessing Rachel passing the buttons out to customers that you  
15 took the picture and sent this message to Johnna?

16       A     I don't remember, no.

17 Q Do you remember if it was like ten minutes or like two  
18 weeks?

19 A I -- I don't remember. I'm sorry.

20 Q Okay.

21 MS. MULTHAUP: I would object on relevance. There's  
22 nothing that ties this bag of buttons to the incident in -- in  
23 question.

24 JUDGE GIANNOPOULOS: All right.

25 MS. MULTHAUP: And --

1 JUDGE GIANNOPOULOS: Then if it's only relevance, I'm  
2 going to overrule it. You can argue it in your brief that  
3 it's -- it's not relevant. But we've had a bunch of  
4 discussions. We're trying to pin down the dates. And I think  
5 the testimony of this witness is that she had the discussion  
6 shortly after --

7 You took -- you sent this text? Yeah.

8 THE WITNESS: Right.

9 JUDGE GIANNOPOULOS: This -- so I think --

10 THE WITNESS: Once I got --

11 JUDGE GIANNOPOULOS: -- it's -- I think it's relevant, at  
12 least for that purpose. But you can argue it in your brief if  
13 you think I'm wrong.

14 All right. So Respondent's 13 is admitted.

15 **(Respondent Exhibit Number 13 Received into Evidence)**

16 MS. SAADE: Thank you.

17 **REDIRECT EXAMINATION**

18 Q BY MS. SAADE: Ms. Marisol -- or Mariscal, did you -- what  
19 was the purpose behind reaching out to your district manager on  
20 this issue?

21 A I felt it was not some -- I mean, that was inappropriate  
22 to be doing during work time. And so I wanted to get some  
23 additional guidance on if that's a conversation that I should  
24 be having with Rachel.

25 Q Were you -- were -- were you at all motivated by the fact

1     that the -- that Ms. Ybarra was en -- engaging in Union  
2     activity at the time? Did you -- were you responding to that?

3     A     No.

4           MS. GARFIELD: Objection.

5           JUDGE GIANNOPOULOS: On what basis?

6           MS. GARFIELD: Leading. What motivated her?

7           JUDGE GIANNOPOULOS: Overruled. That's all right.

8     Overruled.

9           Next question.

10          You can follow up on -- on recross if you need to.

11     Q     BY MS. SAADE: There's been some testimony about the  
12     occasional use of stickers at the bar -- holiday themed  
13     stickers. Do you -- do -- do you believe that -- what  
14     distinguishes that situation from the situation with the  
15     buttons?

16          MS. GARFIELD: Objection.

17          JUDGE GIANNOPOULOS: On what basis?

18          MS. GARFIELD: Beyond cross-examination. We've -- you  
19     know, this is redirect.

20          JUDGE GIANNOPOULOS: Well, no, I had told her she could  
21     revisit this. I told her she could revisit this.

22          But I -- I've got a question. Those stickers, like, where  
23     did they come from?

24          THE WITNESS: One of the partners brought them in.

25          JUDGE GIANNOPOULOS: Okay. All right.



1 Next question.

2 Well, I think it's really argument for brief now.

3 MS. SAADE: Okay, I will. All right.

4 JUDGE GIANNOPOULOS: But I do have a question that --  
5 that -- this was -- this came up yesterday about some sort of  
6 resource pamphlets.

7 MS. SAADE: Oh.

8 JUDGE GIANNOPOULOS: Were there some sort of pamphlets  
9 that -- that you had at the store that you gave to, I don't  
10 know, to the homeless or to people that you thought needed  
11 help?

12 THE WITNESS: Yes.

13 JUDGE GIANNOPOULOS: All right.

14 THE WITNESS: We have a -- Starbucks has an outreach  
15 program --

16 JUDGE GIANNOPOULOS: Um-hum.

17 THE WITNESS: -- and so we have outreach workers that give  
18 us some resources so that -- to give to some of the homeless  
19 community to get fresh food --

20 JUDGE GIANNOPOULOS: Good.

21 THE WITNESS: -- water --

22 JUDGE GIANNOPOULOS: Okay, then.

23 THE WITNESS: -- jars.

24 JUDGE GIANNOPOULOS: Did you want to follow up, Ms. Saade,  
25 on that?

1 MS. SAADE: Sure.

2 Q BY MS. SAADE: Is -- is it -- do you have an  
3 understanding -- when you say it's a Starbucks outreach  
4 program, is it something that's funded or sponsored by  
5 Starbucks?

6 A Yes.

7 Q Are the partners required to distribute them?

8 A No.

9 Q Do the brochures attempt to advocate for any sort of cause  
10 or --

11 MS. GARFIELD: Objection.

12 Q -- sell any -- sell any product?

13 JUDGE GIANNOPOULOS: That's all right.

14 Why don't you just explain --

15 Overruled.

16 That -- that -- just explain to us what these brochures  
17 actually do.

18 THE WITNESS: It just gives information on -- and referral  
19 emails or like an address or phone number so that some of the  
20 homeless community can get some resources they might need.

21 JUDGE GIANNOPOULOS: Okay. I -- and I think you can move  
22 on.

23 MS. SAADE: Just want to clarify.

24 Q BY MS. SAADE: Public resources that are available?

25 A Correct.

1 JUDGE GIANNOPOULOS: Okay.

2 Q BY MS. SAADE: Thank you.

3 MS. SAADE: I have no further questions.

4 JUDGE GIANNOPOULOS: All right.

5 General Counsel, any recross?

6 MS. GARFIELD: Okay. Just -- just a few questions here --

7 JUDGE GIANNOPOULOS: Absolutely.

8 MS. GARFIELD: -- Your -- Your Honor.

9 **RECROSS-EXAMINATION**

10 Q BY MS. GARFIELD: Ms. Mariscal, can you -- can we take a  
11 look at Respondent's 13, the exchange between you and Johnna?

12 JUDGE GIANNOPOULOS: The text message --

13 MS. GARFIELD: Yes.

14 JUDGE GIANNOPOULOS: -- exchange.

15 Q BY MS. GARFIELD: Okay. I -- I -- so just to -- just to  
16 clarify your testimony. There's -- there's a -- a black bubble  
17 that says, "That doesn't feel right, but let me check in with  
18 Nica and Jim"; is that correct?

19 A That's --

20 Q Is that what it -- is that -- is that what it says?

21 A Yes.

22 Q Okay. And who -- who -- who is speaking there?

23 A That is the response that I got from Johnna when I sent  
24 her that picture.

25 Q Okay. And who, if you know, who's Nica.

1     A     Nica is a Regional Director.

2     Q     Okay. And what's Nica's last name, if you know?

3     A     Tovey.

4     Q     Tovey. And how about Jim?

5     A     I don't remember what Jim's last name is.

6           MS. SAADE: He -- he's legal counsel.

7           JUDGE GIANNOPOULOS: Oh, okay.

8           MS. GARFIELD: Oh, okay. Okay.

9     Q     BY MS. GARFIELD: Thank you. Thank you very much.

10    A     Sure.

11    Q     Okay. Just give me a sec.

12    A     Yeah.

13           MS. GARFIELD: Nothing further, Your Honor.

14           JUDGE GIANNOPOULOS: All right.

15           From the Union?

16           MS. MULTHAUP: Nothing further.

17           JUDGE GIANNOPOULOS: All right.

18           I think we're good.

19           And Ms. Saade, anything else? Nothing. All right.

20           Thank you, Ms. Mariscal, appreciate you coming in today.

21    Again, don't discuss your testimony or the facts of the case

22    with anyone until the trial is completely over. You can just

23    leave that there.

24           THE WITNESS: Understood.

25           JUDGE GIANNOPOULOS: And you can step down.

1 THE WITNESS: Thank you.

2 JUDGE GIANNOPOULOS: And you can leave.

3 All right. Ms. Saade, are you ready with your next  
4 witness?

5 MS. SAADE: Yes, I'd like to call Mr. Lassiter.

6 JUDGE GIANNOPOULOS: Okay.

7 Mr. Lassiter, why don't you come up to the witness stand,  
8 sir? Take this exhibit and the water away. Have you raise  
9 your right hand.  
10 Whereupon,

11 **RYAN LASSITER**

12 having been duly sworn, was called as a witness herein and was  
13 examined and testified as follows:

14 JUDGE GIANNOPOULOS: Great. Have a seat, sir. Why don't  
15 you state your first and last name and spell it for the record?

16 THE WITNESS: My name is Ryan Lassiter, R-Y-A-N  
17 L-A-S-S-I-T-E-R.

18 JUDGE GIANNOPOULOS: All right.

19 Go ahead, Ms. Saade.

20 MS. SAADE: Thank you.

21 **DIRECT EXAMINATION**

22 Q BY MS. SAADE: Good morning. Are you currently employed?

23 A I am.

24 Q And who is your employer?

25 A Starbucks.

1 Q And what position do you currently hold?

2 A I am a district manager.

3 Q And are you assigned to a particular region or  
4 geographical location?

5 A I am. I -- I'm assigned to a portfolio of stores in  
6 Seattle, Washington.

7 Q And as a district manager, do you provide support to store  
8 managers in your region?

9 A Absolutely.

10 Q And do you also have some supervisory oversight for store  
11 managers in your region?

12 A I do. I am the direct supervisor of multiple store  
13 managers.

14 Q Could you give us a overview of what kind of training  
15 store managers receive on Starbucks' policies and procedures?

16 A Yes. Our store managers receive around 30 days of  
17 training partnered directly with a store manager trainer and  
18 their district manager around the role of the store manager,  
19 Starbucks' policies, procedures, and practices, as well as how  
20 to utilize systems of support.

21 Q Could you explain what kind of those -- what you mean by  
22 "systems of support"?

23 A Yes. One example could be utilizing the partner relations  
24 call center or virtual coach for guidance on policies. It  
25 could be reviewing the partner guide for written documentation

1 of policies or procedures. Or it could be something as simple  
2 as a recruiting and hiring platform or software.

3 Q If a store manager has a question about a particular  
4 policy or if just a partner has a question about a policy, what  
5 resources are available to them?

6 A They could -- they could ask the question to their next  
7 level supervisor, or they could also refer to the partner  
8 relations team.

9 Q Have you been working in this region since January of  
10 2022?

11 A I have.

12 Q At any point in time, are you aware of any new policies  
13 that have been adopted for this reason -- region related to  
14 excused absences for jury service or for testifying pursuant to  
15 a subpoena?

16 A No.

17 Q So the only written policy or -- or informal policy that  
18 exists is the one in the partner guide?

19 A Correct.

20 Q And what's your understanding of the rule related to  
21 witness duty?

22 A I believe there's a written policy in the partner guide  
23 that states that to perform jury duty, participate in a  
24 hearing, or meet obligations of a subpoena you are to inform  
25 your next level supervisor to arrange coverage of your

1 scheduled shift, and we would pay a pay replacement for that  
2 time missed from work.

3 Q And if -- if a -- if there's a situation where a partner  
4 doesn't -- are there any situations in which a person who takes  
5 time off to participate in a legal proceeding where they still  
6 could violate a company policy?

7 MS. GARFIELD: Objection?

8 JUDGE GIANNOPOULOS: Well, has that ever occurred? Do you  
9 know of any instance where something like that has occurred?

10 THE WITNESS: Could you repeat the question?

11 Q BY MS. SAADE: Sure. Are you aware of any situation where  
12 someone could still violate -- could be found to have violated  
13 the store policies even though they took time off to testify in  
14 a hearing?

15 A Yes.

16 JUDGE GIANNOPOULOS: Has that occurred?

17 THE WITNESS: I know of one instance where it has  
18 occurred.

19 JUDGE GIANNOPOULOS: All right.

20 So you can get into that instance.

21 Q BY MS. SAADE: Without disclosing the name of the  
22 individual, what were the general circumstances?

23 A A barista at a store that I support did not show up for a  
24 scheduled shift and did not notify anyone that they would not  
25 be showing up for a scheduled shift.



1 Q So under that sort of situation a no call, no -- is it --

2 A It would be considered a no call/no show.

3 Q Okay. And under that sort of situation, that could be a  
4 violation of the store policy?

5 A Yes.

6 JUDGE GIANNOPOULOS: But it's your understanding it was  
7 learned after the fact, what, the barista was on jury duty?

8 THE WITNESS: I am not sure exactly the time line of when  
9 they -- they learned that they were participating in a -- in a  
10 court proceeding.

11 JUDGE GIANNOPOULOS: I see. All right. Move on.

12 Q BY MS. SAADE: Does -- does the Starbucks have any  
13 policies that prevent partners from distributing Union-related  
14 BFF pins or buttons on their off time around the store?

15 A Could you rephrase the question?

16 Q Sure. Does Starbucks have any policies against partners  
17 distributing Union-related buttons or pins outside the store  
18 when they're not on the clock?

19 A No.

20 JUDGE GIANNOPOULOS: Okay. Okay. I thought we talked  
21 about it because it would be illegal if they did.

22 MS. SAADE: Well, sure. But I feel as though we need  
23 to --

24 JUDGE GIANNOPOULOS: I thought we testified about it  
25 yesterday.

1 MS. SAADE: -- clarify it.

2 JUDGE GIANNOPOULOS: I thought that your witness yesterday  
3 said that, but that's all right. Go ahead. Next question.

4 MS. SAADE: Yeah. And Your Honor, I -- I -- I will just  
5 say, I'm not trying to be duplicative or --

6 JUDGE GIANNOPOULOS: No, that's all right.

7 MS. SAADE: Based on the questions that Counsel for the  
8 General Counsel asked yesterday, I thought it was important to  
9 hear from someone in the management chain --

10 JUDGE GIANNOPOULOS: Yeah.

11 MS. SAADE: -- for the store managers.

12 JUDGE GIANNOPOULOS: Yeah, that's okay. I just thought  
13 that Mr. Lawrence had said something about that yesterday, but  
14 next question.

15 Q BY MS. SAADE: Are you aware of any of the store managers  
16 in the Broadway and Denny store advising partners that they  
17 couldn't hand out buttons on their own time -- Union-related  
18 buttons on their own time?

19 A No, I am not aware.

20 MS. SAADE: I --

21 JUDGE GIANNOPOULOS: And that's one of the stores that you  
22 oversee?

23 THE WITNESS: It is not in my direct portfolio today.

24 JUDGE GIANNOPOULOS: Okay. Was it at some point?

25 THE WITNESS: I was supporting Pam as a operations coach

1 in January 2022.

2 JUDGE GIANNOPOULOS: All right. All right. Very good.  
3 Thank you.

4 MS. SAADE: I have no further questions.

5 JUDGE GIANNOPOULOS: All right. General Counsel, cross-  
6 examination.

7 **CROSS-EXAMINATION**

8 Q BY MS. GARFIELD: Can you tell us, please -- Good morning,  
9 Mr. Lassiter. I'm Alice Garfield for the -- for the  
10 Government. You probably heard me say that before. Can you  
11 tell us -- you said that -- you testified that in January that  
12 you were an operations coach for the Broadway and Denny store;  
13 is that correct?

14 A Correct.

15 Q Okay. What is an operations coach? What is --

16 MS. GARFIELD: Strike that.

17 Q BY MS. GARFIELD: What are the duties of an operation  
18 coach?

19 A The duties assigned to me at that time when I was  
20 supporting Broadway and Denny were to provide barista floor  
21 coverage when there were staffing gaps in the store, as well as  
22 support Pam as a store manager in taking time to participate in  
23 her job duties within the scope of the store manager role. And  
24 I believe I also supported with conducting interviews for new  
25 candidates to hire for that store at the time when they were

1 understaffed in January.

2 Q And how long were you the operations coach for the  
3 Broadway and Denny store?

4 A I -- that was one of the many stories I was supporting.  
5 So I would say I was there maybe one to two times per week,  
6 maybe not even weekly. And I do not believe that that was a --  
7 a long-term support that I provided there.

8 Q So did you provide that support only for the month of  
9 January 2022 to Broadway and Denny?

10 A I believe it might have went into early February as well.

11 Q So from January to early February you provided those --  
12 those -- that support?

13 A That is what my recollection of the time line is. Yes.

14 Q Fair enough. And when you were operations coach for  
15 beginning of January to early February of 2022, were you  
16 contemporaneously the district manager?

17 A I'm sorry. Can you repeat that?

18 Q Were you contemporaneously the district manager, the  
19 position you said you -- you occupy today?

20 A No. I -- at the time in January, I was applying for a  
21 district manager role after coming back into the Seattle market  
22 from time in Bellingham, Washington.

23 Q Um-hum.

24 A And I was awaiting either a permanent store manager  
25 placement or pending the results of the district manager role

1 through the interview process at Starbucks.

2 Q Okay. Fair enough. So -- so from January to February  
3 your -- your sole role with Starbucks was operations coach  
4 January to early February?

5 A I believe I -- that was an interim role that I was  
6 supporting, not just one store but supporting and staffing gaps  
7 and store manager capability building across --

8 Q Sure.

9 A -- all of greater Seattle area.

10 Q Sure. But it was still that operations coach position,  
11 correct?

12 A I believe the title was either operations coach or peer  
13 coach --

14 Q Okay.

15 A -- at the time.

16 Q Fair enough.

17 A It had the word coach in it for sure.

18 Q Okay. Fair enough. And so when did you become district  
19 manager?

20 A I became a district manager in June 2022.

21 Q And as district manager -- since you took that position as  
22 district manager, are you responsible for the Broadway/Denny  
23 store?

24 A I am not, no.

25 Q Okay. So in your -- in your position as operations coach,



1     you would help the store manager provide floor coverage for  
2     baristas who weren't working; is that correct?

3     A     That was a portion of what I supported with, yes.

4     Q     Yes. Okay. Do you recall being asked on January 18th or  
5     thereabouts by the store manager at Broadway and Denny to find  
6     a replacement for Ms. Rachel Ybarra?

7     A     I -- I don't remember. I -- I don't think so, and I don't  
8     remember that date being a time I was asked to provide  
9     coverage.

10    Q     Okay. So when you testified an employee -- about an  
11    employee - unnamed employee being a no call/no show --

12    A     Um-hum.

13    Q     -- it wasn't Ms. Ybarra to whom you were referring; is  
14    that correct?

15    A     That's correct.

16    Q     Okay. Fair enough.

17           MS. GARFIELD: I have nothing further, Your Honor.

18           JUDGE GIANNOPOULOS: All right.

19           For the Union.

20    Q     BY MS. GARFIELD: Thank you, Mr. --

21           MS. MULTHAUP: No questions.

22           JUDGE GIANNOPOULOS: All right.

23           Ms. Saade, any follow up?

24           MS. SAADE: Not currently.

25           JUDGE GIANNOPOULOS: All right.

1 Thank you, sir. You can step down.

2 THE WITNESS: Thank you.

3 JUDGE GIANNOPOULOS: Take your position back at the  
4 representative with the admonition the sequestration order is  
5 still in place.

6 All right. Ms. Saade, any more witnesses or evidence?

7 MS. SAADE: Yes. I'd like to call Ms. Ybarra.

8 JUDGE GIANNOPOULOS: All right.

9 Ms. Ybarra, come back up to the witness stand. Leave all  
10 your stuff. You can just leave it on your chair there. All  
11 right. Have a seat. I just want to remind you, you're still  
12 under oath.

13 Whereupon,

14 **RACHEL YBARRA**

15 having been previously sworn, was called as a witness herein  
16 and was examined and testified as follows:

17 JUDGE GIANNOPOULOS: Let me remove the --

18 THE WITNESS: Water?

19 JUDGE GIANNOPOULOS: -- the old water. Get you another  
20 water.

21 Okay. Go ahead, Ms. Saade.

22 MS. SAADE: Thank you.

23 **DIRECT EXAMINATION**

24 Q BY MS. SAADE: Ms. Ybarra, good morning, first of all.

25 I'd like to turn your attention back to the -- the incident

1 with the customer, I believe you indicated her first name is  
2 Jenn (phonetic throughout)?

3 A Jenn? Yes.

4 Q Do you know Jenn's last name?

5 A You said it yesterday, but I can't remember.

6 Q Okay. Did you have any conversations with Jenn about this  
7 case and make a request to her that she testify as a witness in  
8 this case?

9 A I did not.

10 Q Did you take any steps to obtain Jenn's contact  
11 information so that you could share it with anyone related to  
12 this case?

13 A I did not.

14 Q Did you give Jenn contact information for any attorney  
15 with the Region or the Union?

16 A I did not.

17 Q Did you have any conversations with Jenn to ask her to get  
18 involved in the case?

19 A I did not.

20 Q Did you ask anyone else to get in touch with Jenn?

21 A I did not.

22 Q Do you know how Jenn came known to counsel for the General  
23 Counsel?

24 MS. GARFIELD: Objection.

25 MS. MULTHAUP: Objection.





1 JUDGE GIANNOPOULOS: Sustained.

2 Q BY MS. SAADE: Did you take any steps to get in touch with  
3 Jenn prior to her testimony yesterday?

4 MS. GARFIELD: Objection. Asked and answered.

5 JUDGE GIANNOPOULOS: I agree.

6 And I'm going to sustain it because, you know, really, the  
7 question would be perhaps valid after the complaint issued in  
8 preparation of the testimony today. But before the complaint  
9 issued and -- and -- I mean, her testimony is what it is, but  
10 so what?

11 Before the complaint actually issued, if the witness  
12 had -- had told the entire world that, hey, you know, this is  
13 who Jenn is and that's where, you know, Jenn is -- is working,  
14 and this is Jenn's phone number, doesn't matter. It doesn't  
15 matter. You --

16 MS. SAADE: May I --

17 JUDGE GIANNOPOULOS: -- focus in after --

18 MS. SAADE: Yeah.

19 JUDGE GIANNOPOULOS: -- complaint issued in preparation  
20 for her testimony today. Or I'm sorry, I apologize --

21 THE WITNESS: It's not a big deal for the --

22 JUDGE GIANNOPOULOS: Rachel --

23 THE WITNESS: -- case -- purpose of the case, it's easier  
24 just to use her, it's fine.

25 JUDGE GIANNOPOULOS: Okay. But is it -- is it correct? I

1 just want to -- I want to make sure it's correct that at the  
2 store, you -- your preferred pronoun is them?

3 THE WITNESS: Yeah, them.

4 JUDGE GIANNOPOULOS: Okay. All right. Because there was  
5 some testimony earlier that perhaps I, in my mind at least, I  
6 thought that there was more than one person present.

7 THE WITNESS: Yeah.

8 JUDGE GIANNOPOULOS: That is -- I just wanted to affirm  
9 that with you.

10 All right. Ms. Saade, go ahead.

11 MS. SAADE: Thank you. May I make an offer of proof on  
12 the topic, Your Honor?

13 JUDGE GIANNOPOULOS: Yes, you may.

14 MS. SAADE: I -- I do believe that asking the witness  
15 about any conversation she had with Jenn prior to the issuance  
16 of the complaint is relevant to the credibility of the  
17 witnesses' testimony and whether or not there have been  
18 additional communications related to what happened that day.

19 JUDGE GIANNOPOULOS: I don't think so. Your offer of  
20 proof is -- is in the record. But -- but you asked her.  
21 She -- I mean, Rachel has answered the questions.

22 MS. SAADE: All right. Thank you.

23 Q BY MS. SAADE: Do you mind if I call you Ms. Ybarra? I  
24 apologize, I have --

25 A That's fine.

1 Q -- been using the -- the pronoun Ms. or Mrs.

2 A That's fine.

3 Q I'm happy to call you just by Rachel if you're more  
4 comfortable.

5 A Ms. Ybarra is fine.

6 Q Okay. Ms. Ybarra, turning back to the incident with Jenn  
7 at the -- at the store location, did you indicate in any way to  
8 your manager, Pam, that you would be stepping away from the bar  
9 area?

10 A No.

11 JUDGE GIANNOPOULOS: I guess I have a question on that.  
12 So -- so -- so you know, you were sitting at Counsel's table as  
13 the representative -- as the person that's -- that's necessary  
14 for the case. If you're at the store and you're just stepping  
15 into the back room -- I mean, I'm assuming that comes up that  
16 you -- you -- I don't know, you left something in your backpack  
17 or you wanted to get something that you had and left on the  
18 table and -- and, you know -- I thought yesterday your  
19 testimony was that your interaction with these buttons was like  
20 20 seconds, 30 seconds, I believe so?

21 THE WITNESS: That's correct.

22 JUDGE GIANNOPOULOS: Hasn't it come up before where you  
23 just need to pop into the back to grab something and pop back  
24 up front?

25 THE WITNESS: I consistently run to the back to like -- I

1 keep a -- my backpack is full of Sharpies --

2 JUDGE GIANNOPOULOS: Okay.

3 THE WITNESS: -- because we need Sharpies for work. So  
4 I'll run back to grab Sharpies. I'll sometimes -- like I'll  
5 mention on my way back there, like I'm grabbing Sharpies.

6 JUDGE GIANNOPOULOS: But does that happen all the time?  
7 You yell out "grabbing Sharpies" or --

8 THE WITNESS: Absolutely not. It doesn't need to be an  
9 announcement to the whole store.

10 JUDGE GIANNOPOULOS: Okay. Now, does it -- is -- are  
11 there times that come up that you do announce it?

12 MS. SAADE: Your Honor, I -- I must --

13 JUDGE GIANNOPOULOS: Go ahead.

14 MS. SAADE: -- object because I do believe you are leading  
15 the witness.

16 JUDGE GIANNOPOULOS: I'm the judge. I'm asking the -- I'm  
17 asking her --

18 MS. SAADE: I understand.

19 JUDGE GIANNOPOULOS: -- if there's times that it comes up  
20 that she does announce it. Is that yes or no?

21 THE WITNESS: Yes.

22 JUDGE GIANNOPOULOS: Okay.

23 THE WITNESS: Sometimes I will state --

24 JUDGE GIANNOPOULOS: Okay.

25 So --

1 THE WITNESS: -- I'm going back.

2 JUDGE GIANNOPOULOS: -- so overruled. So your objection  
3 is noted. It's overruled.

4 Are there times that comes up that you don't announce it?

5 THE WITNESS: Yes.

6 JUDGE GIANNOPOULOS: Okay. And is it --

7 All right. So you can follow up. Go ahead.

8 MS. SAADE: Thank you, Your Honor.

9 Q BY MS. SAADE: Ms. Ybarra, is the general expectation that  
10 when you -- when -- when you're working at the bar, and you  
11 step away, your typical practice is to let people you're  
12 stepping away?

13 MS. GARFIELD: Objection.

14 JUDGE GIANNOPOULOS: Overruled.

15 A If I were to be working at the bar because that's a  
16 planted position, I would communicate where I was going. But  
17 because I was customer support at the time, I -- the role is by  
18 nature mobile.

19 Q But at the time you stepped away, you were behind the bar?

20 A No. I was customer support.

21 Q But you were sit -- you were standing behind the register  
22 area, correct, in the -- in the narrow hallway?

23 A If you mean that I was on the clock doing my job, then  
24 yes. But the role I was in was not bar.

25 JUDGE GIANNOPOULOS: All right.

1 Q BY MS. SAADE: But -- but physically?

2 JUDGE GIANNOPOULOS: And so when you say --

3 Let me just clarify because it was -- it was vague.

4 When you say, "behind bar", I mean, everyone apparently is  
5 working behind the bar --

6 THE WITNESS: Yes.

7 JUDGE GIANNOPOULOS: -- in general. But my understanding  
8 was behind the bar is the person that makes coffee.

9 THE WITNESS: Correct.

10 JUDGE GIANNOPOULOS: I'll be honest with you; this has  
11 been confusing to me. Starbucks makes coffees and, you know,  
12 there's been very little testimony about people actually making  
13 coffee. And --

14 THE WITNESS: Believe me. I wish that was my whole job.

15 JUDGE GIANNOPOULOS: -- and we've been -- you then refer  
16 to these positions like with these lofty things and this and  
17 that and --

18 Anyway. Go ahead. Next question.

19 Q BY MS. SAADE: So Ms. Ybarra, though physically where were  
20 you standing at the time you were behind the register area, the  
21 metal -- the metal countertop, correct, that --

22 A It's wooden --

23 Q -- or --

24 A -- but yes, I was behind the register.

25 Q So you were in employee on -- employee only area, correct?

1 A Correct.

2 Q Okay. Thank you. And your typical practice was to let  
3 people know when you left that area to go do something?

4 MS. GARFIELD: Objection.

5 JUDGE GIANNOPOULOS: Overruled.

6 A Again, it really depends on the position I'm in.

7 Q BY MS. SAADE: When you're -- when you're generally, on  
8 average, working in any of the positions, do you generally let  
9 people know when you're stepping away?

10 A It -- it -- it can't be that general. Customer support  
11 is -- it has to be a mobile role because if somebody says I'm  
12 out of two percent milk, I have to immediately run to the back  
13 and get them that milk.

14 Q Right. But that's upon -- that's -- that's a situation  
15 where you're being requested to go do something by a coworker,  
16 correct? Or you're being --

17 A Correct.

18 Q -- triggered by something someone else says to go do  
19 something?

20 JUDGE GIANNOPOULOS: In -- in that situation -- so a  
21 coworker tells you, I need two percent milk and you're working  
22 as, I think you said, customer support --

23 THE WITNESS: Yes.

24 JUDGE GIANNOPOULOS: -- or whatever it's called, do you  
25 yell out going to the back fridge to get two percent milk?

1 THE WITNESS: No, I -- I'll usually acknowledge by saying  
2 heard.

3 JUDGE GIANNOPOULOS: All right, then.

4 Q BY MS. SAADE: So there's some level of communication  
5 between you and at least one other person working in that same  
6 area to let them know where your whereabouts are?

7 A In that specific circumstance, yes. But if we were out of  
8 something and -- like if we ran out of cups or something, I --  
9 or we're running low, I would just go get them.

10 Q You -- there's been some mention of like being in a  
11 play -- you know, active in a play as the team or the partners  
12 are working together behind the bar.

13 MS. GARFIELD: Objection. Objection.

14 JUDGE GIANNOPOULOS: On what basis?

15 MS. GARFIELD: I -- I -- I -- I -- I don't recall there  
16 being any mention of a "play".

17 JUDGE GIANNOPOULOS: Well, I don't either, but I'll let --  
18 I'll Counsel --

19 MS. GARFIELD: And I don't know, frankly, Your Honor, I  
20 don't even know what a "play" refers to.

21 MS. SAADE: Okay. Well, I can ask --

22 JUDGE GIANNOPOULOS: I'm not sure -- well, lay --

23 MS. SAADE: -- I can lay the foundation.

24 Q BY MS. SAADE: Are you --

25 JUDGE GIANNOPOULOS: We'll wait for the question --



1 Q BY MS. SAADE: -- is --

2 JUDGE GIANNOPOULOS: -- to be finalized.

3 Q BY MS. SAADE: -- is the term play used while you're  
4 working at the store?

5 A Yes. I can clarify it further.

6 Q Yes, please, go ahead. Explain to us what your  
7 understanding of that term is.

8 A These are the terms a little weird in this instance. But  
9 the -- we have a program called a Play Builder. It essentially  
10 suggests where folks should be positioned on any given -- on  
11 given day, at any given time. And the person -- the terms "key  
12 holder" and "play caller" are differentiated in this  
13 circumstance. A key holder has the keys. A play caller is the  
14 person who tells everyone where they're supposed to be.

15 JUDGE GIANNOPOULOS: I see. See, when you said "play", I  
16 thought a Broadway show. But apparently --

17 MS. SAADE: I --

18 JUDGE GIANNOPOULOS: -- we're talking about a sports team.

19 MS. SAADE: We're just talking baseball --

20 JUDGE GIANNOPOULOS: Yeah.

21 MS. SAADE: -- Judge.

22 JUDGE GIANNOPOULOS: Yeah. We've got coaches. We've  
23 got -- we've got plays. I -- you know -- okay. Play caller,  
24 play (sic) holder. Go ahead. Next question.

25 MS. SAADE: Thank you.

1 Q BY MS. SAADE: So when you're -- when you're involved in a  
2 play -- an active play while you're on shift, you do have  
3 assignments and you -- you make an effort to communicate with  
4 your coworkers where things -- where people are at that time?

5 A Please rephrase the question.

6 Q Sure. I'll ask it a different way. During -- during an  
7 active play, is communication important?

8 A Yes.

9 Q Communication with the other people involved in the play?

10 A Correct.

11 MS. SAADE: All right. I have no other questions. Thank  
12 you.

13 JUDGE GIANNOPOULOS: All right.

14 General Counsel, did you have any follow up?

15 MS. GARFIELD: I do not. Thank you, Your Honor.

16 JUDGE GIANNOPOULOS: How about from the Union?

17 MS. MULTHAUP: No.

18 JUDGE GIANNOPOULOS: I have a question about this picture  
19 with the -- Respondent's 13. Ms. Ybarra, if you could take a  
20 look at that? This bag of -- the bag of buttons.

21 THE WITNESS: Yes.

22 JUDGE GIANNOPOULOS: Is this the bag that you gave the  
23 other person that was actually a Starbucks employee, or was  
24 this another bag of buttons?

25 THE WITNESS: This, I believe, is the bag of buttons that

1 I gave -- that I kept in my locker. I pulled from this bag  
2 when I gave buttons to Jenn.

3 JUDGE GIANNOPOULOS: And there's actually two bags?

4 THE WITNESS: There's actually two bags, yes.

5 JUDGE GIANNOPOULOS: Okay.

6 THE WITNESS: One of them is small and the -- one of them  
7 is small because the other one is regular sized ones.

8 JUDGE GIANNOPOULOS: I see. Okay. And which ones did you  
9 give to Jenn? The small pins or the regular sized ones?

10 THE WITNESS: I gave her a couple of the small ones and a  
11 couple of the big ones because she specifically mentioned that  
12 the small ones were cute.

13 JUDGE GIANNOPOULOS: I see. Okay. All right. And then  
14 what else is on this table? I see a bottle of water.

15 THE WITNESS: Yeah, there's a bottle of water, a box  
16 cutter. There's a temperature -- a thermometer thing that --

17 JUDGE GIANNOPOULOS: I see.

18 THE WITNESS: -- down one.

19 JUDGE GIANNOPOULOS: Okay.

20 THE WITNESS: On the floor is my backpack.

21 JUDGE GIANNOPOULOS: Got it. And maybe a box of Kleenex?  
22 I don't know.

23 THE WITNESS: What?

24 JUDGE GIANNOPOULOS: All right. Thank you. That was my  
25 questions.

1 Any follow up based on that question from Ms. Saade?

2 MS. SAADE: No, thank you.

3 JUDGE GIANNOPOULOS: All right.

4 From the General Counsel?

5 MS. GARFIELD: Just a minute, Your Honor. Just one  
6 question, please.

7 **CROSS-EXAMINATION**

8 Q BY MS. GARFIELD: Looking at Respondent's 13 and recalling  
9 that you testified that you gave a -- a bag at a later day -- I  
10 believe you testified it was May 31st -- to somebody who you  
11 identified as an off-duty coworker. Did -- did -- the bag you  
12 gave her was it -- was it similar in appearance to either of  
13 these bags pictured in -- in Respondent's 13?

14 A I believe it was a larger bag. It also had different  
15 kinds of pins. We have some now that are like rainbows and  
16 trans flag and a couple of others.

17 Q Okay. Fair enough. So -- so -- so your answer, then, is  
18 that the -- the picture in -- in -- in Respondent's 13 doesn't  
19 necessarily depict the bag of buttons that you gave to the --  
20 the other individual on or about May 31; is that correct?

21 A No. That bag wouldn't have existed at the time.

22 Q Okay. Fair enough.

23 JUDGE GIANNOPOULOS: But would it have been in like a  
24 Ziploc bag like this, a clear bag?

25 THE WITNESS: I think so, yeah.

1 JUDGE GIANNOPOULOS: Yeah. All right.

2 MS. GARFIELD: Your Honor, just -- I have nothing further  
3 at this time.

4 JUDGE GIANNOPOULOS: How about from the Union?

5 MS. MULTHAUP: No.

6 JUDGE GIANNOPOULOS: Ms. Saade, based on that? Nothing.  
7 Okay.

8 All right. Ms. Ybarra, step down. Thank you for coming  
9 back. Help the witness down. You can take your water with you  
10 because I've got an array now, with these waters behind me.

11 THE WITNESS: Can I take some of those off your hands for  
12 you?

13 JUDGE GIANNOPOULOS: Okay. Ms. Saade, do you have any  
14 other evidence or witnesses you'd -- you'd like to call?

15 MS. SAADE: I don't have any other live witnesses, Your  
16 Honor. I would renew -- or I guess it's a new -- it's a new  
17 request from the Respondent to hold the record open so that we  
18 could secure Ms. Turvin's testimony.

19 JUDGE GIANNOPOULOS: Okay. And on what basis? What  
20 make -- give me an offer of proof of what you believe Ms.  
21 Turvin would -- would testify to.

22 MS. SAADE: Well, Ms. Turvin, at the time, was within the  
23 direct line of supervision of the two store managers that are  
24 alleged to have made unlawful statements. She can speak to the  
25 training and the supervision that she provided those managers

1 and speak to whether or not the alleged statements are  
2 consistent with her training and expectations for those  
3 managers.

4 She can also testify to conversations that she had with  
5 Pam Mariscal about the distribution of buttons in the store and  
6 the considerations that went into -- that led to the  
7 conversation with the partner about it. And to confirm that  
8 there was no disciplinary intent or coercive or threatening  
9 intent behind the communication, but instead an effort to be  
10 consistent with company policy and to have a refresh of the  
11 policy with the partner rather than any sort of like coercive  
12 or threatening or interfering conversation.

13 JUDGE GIANNOPOULOS: All right. Give me one second. Did  
14 you issue a subpoena to Ms. Turvin?

15 MS. SAADE: I did not, Your Honor.

16 JUDGE GIANNOPOULOS: Okay.

17 MS. SAADE: She is still employed by Starbucks, and she --

18 JUDGE GIANNOPOULOS: All right. I'm -- I'm going to  
19 deny -- I'm going to deny your motion. And I'm going to make  
20 the -- you had originally made this motion to the associate  
21 chief judge and then the acting associate chief judge ruled on  
22 it. I'm going to make those part of the record as ALJ  
23 exhibits.

24 MS. SAADE: I believe they already are, Your Honor.

25 JUDGE GIANNOPOULOS: Are they in the record?

1 MS. SAADE: Yeah. At L-M, L-N, O, and P, I believe.

2 JUDGE GIANNOPOULOS: Oh, as the formal papers?

3 MS. SAADE: As the formal papers.

4 JUDGE GIANNOPOULOS: Yeah, okay. Because I don't think  
5 that -- I'll be honest with you, in your motion to postpone all  
6 you say is that -- that Ms. Turvin is on medical leave. There  
7 is no indication as to -- as to what the reason is for this  
8 leave. Someone could be on medical leave for a rotator cuff  
9 injury. That does not mean that the witness is unable to come  
10 and testify at trial. There's no evidence as to -- as to why  
11 Ms. Turvin can't come. There was no subpoena issued. The way  
12 you compel someone's testimony is you issue them a subpoena.  
13 There was no -- you said there's no subpoena of Ms. Turvin.  
14 There was no petition to revoke filed on a subpoena.

15 So your motion is denied for basically the same reasons  
16 that the associate chief judge said and the -- and the facts  
17 and the cases cited in that decision -- in that order. So the  
18 motion is denied.

19 MS. SAADE: May I be heard on a reconsideration basis or a  
20 modified request, Your Honor?

21 JUDGE GIANNOPOULOS: On what basis? Go ahead.

22 MS. SAADE: Thank you. I -- I obviously was careful not  
23 to include the specifics of Ms. Turvin's medical leave for  
24 protective legal reasons. However, if Your Honor was willing  
25 to consider a motion to keep the record open, I may be able to

1 provide additional details that may --

2 JUDGE GIANNOPOULOS: It's too late. Not now. You had an  
3 opportunity to subpoena her. There was no subpoena issued.  
4 We're now -- the complaint has been -- the complaint -- at  
5 least one of the complaints has been outstanding. We've all  
6 known about the trial date. You know, you could have  
7 subpoenaed Ms. Turvin. She could have filed a petition to  
8 revoke on the basis that -- that she's unavailable for -- for  
9 medical reasons.

10 And again, for the cases cited by the acting associate  
11 chief judge, I find that -- that I'm not going to hold the  
12 record open to postpone on that basis. And you know, I think  
13 the -- what you proffered her evidence would be -- would be due  
14 today. I'm sorry. You should have issued a subpoena. You had  
15 an opportunity to do so, it's too late. That's my ruling.

16 So any other evidence or witnesses?

17 MS. SAADE: No, thank you.

18 JUDGE GIANNOPOULOS: All right.

19 From the General Counsel or the Union, anything else? Any  
20 rebuttal?

21 MS. GARFIELD: No -- no, Your Honor. Thank you.

22 JUDGE GIANNOPOULOS: From the Union?

23 MS. MULTHAUP: No.

24 JUDGE GIANNOPOULOS: Okay. So in a case like this, what  
25 is your preference with respect to briefing or oral arguments?



1           Start with the General Counsel.

2           MS. GARFIELD: General Counsel prefers to submit a brief,  
3 Your Honor.

4           JUDGE GIANNOPOULOS: From the Union?

5           MS. MULTHAUP: No preference.

6           JUDGE GIANNOPOULOS: From -- from Starbucks.

7           MS. SAADE: We prefer a brief, Your Honor.

8           JUDGE GIANNOPOULOS: Okay.

9           The parties will be provided 35 days to file post-hearing  
10 brief. The briefs, therefore, will be due on October 19th,  
11 2022. The briefs should be filed with the Division of Judges  
12 in the San Francisco office regardless of whether they are e-  
13 filed or mailed. Sections 102.2 through 102.5 of the Board's  
14 Rules and Regulations for filing briefs and requirements should  
15 be noted.

16           Any request for an extension of time for the filing of  
17 briefs must be made in writing to the associate chief judge in  
18 the San Francisco office and served on all the parties. The  
19 positions of the parties regarding the extensions should be  
20 obtained and set forth in the request. It's the policy of the  
21 Division of Judges to grant discretionary extensions only when  
22 they are clearly justified. Requests for extensions must  
23 contain specific reasons and show that the requesting party  
24 cannot reasonably meet the current deadline.

25           Again, please refer to the Board's Rules and Regulations



1 for further information regarding the filing of briefs and  
2 proposed findings for my consideration and regarding procedure  
3 for the Board and the issuance of my decision.

4 Let me remind you that settlement is still an option. And  
5 I urge you, again, to -- to -- to look at a possible settlement  
6 of this case. I mean, I know there's a lot going on between  
7 these -- between the Charging Party and the Respondent, there  
8 are a lot of cases, but that doesn't mean that this case cannot  
9 be settled.

10 So now that all the evidence is in, you might have a  
11 better ability to assess your chances of winning or losing than  
12 before the trial started. I encourage all the parties to  
13 revisit settlement and carefully weigh the risks entailed and  
14 decide whether an amicable settlement of the issues might offer  
15 a more satisfactory solution.

16 I appreciate all of your professionalism from everybody.  
17 And now that there's nothing further, the hearing is closed,  
18 and we'll be off the record.

19 **(Whereupon, the hearing in the above-entitled matter was closed**  
20 **at 11:12 a.m.)**

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C E R T I F I C A T I O N

This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), Region 19, Case Number 19-CA-289275, Starbucks Corporation and Workers United, affiliated with Service Employees International Union, held at the National Labor Relations Board, Region 19, 2948 Jackson Federal Building, 915 2nd Avenue, Seattle, Washington 98174-1078, on September 14, 2022, at 9:04 a.m. was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the reporting or recording, accomplished at the hearing, that the exhibit files have been checked for completeness and no exhibits received in evidence or in the rejected exhibit files are missing.

A handwritten signature in blue ink, reading "Bruce E. Carlson", is written over a horizontal line.

BRUCE E. CARLSON

Official Reporter